

MEETING OF THE PARLIAMENT

Wednesday 27 January 2010

Session 3

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Scottish Parliament

Wednesday 27 January 2010

[THE PRESIDING OFFICER *opened the meeting at 14:30*]

Time for Reflection

The Presiding Officer (Alex Fergusson): Good afternoon. The first item this afternoon is time for reflection, and we are very privileged that our time for reflection leader today is the Right Rev William Hewitt, moderator of the General Assembly of the Church of Scotland.

The Right Rev William Hewitt (Moderator of the General Assembly of the Church of Scotland): Presiding Officer, ladies and gentlemen, I thank you for the privilege of delivering this time for reflection.

Since 2001, people in Britain have observed today, 27 January, as Holocaust memorial day. Yesterday, I was privileged to join some members of the Parliament at a powerful and moving event organised by Glasgow City Council, at which pupils from Shawlands academy who had visited Auschwitz last year shared their thoughts and feelings with us. We also heard from the lady in Tennessee who founded the paper-clips project, which is a project for schoolchildren to create a tribute to the estimated 6 million Jews who were killed in the Holocaust. The school decided to represent one life with one paper-clip, and therefore to collect 6 million paper-clips. They have been sent from all over the world. At the last count, 30 million paper-clips had been collected.

The idea of a national Holocaust commemoration was proposed with three broad and interrelated aims in mind: to commemorate the Holocaust; to acknowledge the repeated occurrences of genocide around the world since 1945; and to renew the commitment of British people to combat racism, anti-Semitism and xenophobia and to work for an inclusive, caring and open society. All those aims are important to us and to all of society.

For those of us who take the gospel seriously, this day provides a particularly valuable opportunity for us to reflect on some of the core concerns of society and our Christian faith in the light of world history. Although the focus of the day remains the central event that we call the Holocaust, it is also intended to provide an opportunity to reflect on issues that are raised by all atrocities, especially those events that have been designated as genocides, such as those that took place in Bosnia and Cambodia.

We are reminded of the reality that evil is still powerful in our world. Today gives us an opportunity to strengthen our resolve to protect every community from ethnic cleansing and elimination. Neither the Holocaust nor any other genocide would have been possible without whole societies being told that certain groups of people were alien, dangerous, contemptible or not fully human. We do not have to go terribly far in our own society, here in Scotland, to find dehumanising language, stereotyped images and hostile attitudes expressed against those who, some would claim, are different, so that we may dismiss them as alien or unwanted.

Today, we want to affirm the blessings that diversity can bring to our society and to acknowledge that all true faiths engender compassion, justice, tolerance and living peacefully within the worldwide community, that all people might enjoy the right of life and the pursuit of happiness and livelihood.

Today, in this busy world, we best remember and honour the victims of the Holocaust and other atrocities if we order our lives—personally, nationally and internationally—to ensure that there will never be another time in our history when we make victims of anyone. It is not enough to put the past behind us and move on. I hope and pray that we can all find the wisdom to ensure that such events never happen again.

Business Motion

14:34

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motion S3M-5605, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, which sets out a timetable for stage 3 consideration of the Tobacco and Primary Medical Services (Scotland) Bill.

Motion moved,

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

Groups 1 and 2: 25 minutes

Groups 3 to 5: 1 hour

Groups 6 to 8: 1 hour 25 minutes.—[Bruce Crawford.]

Motion agreed to.

Tobacco and Primary Medical Services (Scotland) Bill: Stage 3

14:35

The Presiding Officer (Alex Fergusson): The next item of business is stage 3 proceedings on the Tobacco and Primary Medical Services (Scotland) Bill. For dealing with the amendments, members should have in front of them the bill as amended at stage 2, which is marked “SP Bill 22A”, and the marshalled list of amendments, which is marked “SP Bill 22A-ML”. In addition, they should have the groupings of amendments, which I as Presiding Officer have agreed. Members should also have a supplement to the marshalled list containing a manuscript amendment that I have agreed may be considered in this afternoon’s proceedings. The supplement has been placed on each desk.

During the course of the afternoon, the division bell will sound. Proceedings will be suspended for five minutes for the first division. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. For all other divisions, the voting period will be 30 seconds.

Section 1—Prohibition of tobacco displays etc

The Presiding Officer: Group 1 is prohibition of tobacco displays et cetera. Amendment 4, in the name of Mary Scanlon, is grouped with amendments 29, 29A, 30, 5, 6, 31, 32, 7 to 10, 14, 47 and 16. I draw members’ attention to the pre-emption information on the groupings sheet under “Notes on amendments in this group”.

Mary Scanlon (Highlands and Islands) (Con): We all agree on the link between smoking and poor health, and we all agree on the fact that the younger that people start smoking, the more acute their health problems in later life will be. Our opposition to the ban on tobacco displays is not an opposition to smoking cessation programmes. The fact is that the evidence base does not exist to support a ban. The Health and Sport Committee’s stage 1 report states:

“The Committee notes that strong views were advanced on both sides of the debate. The Committee also recognises that the evidence base for this proposal is at an early stage and that the international evidence to date is inconclusive.”

The Government proposes to ban visual displays in the hope that doing so will produce an evidence base in support of its argument that such a measure will reduce smoking. There is not yet conclusive evidence that the ban will achieve what it sets out to achieve. The claim in the policy

memorandum that banning visual displays of cigarettes will

“protect children and young people from the impact of tobacco smoking”

is, therefore, not true. Although a ban on visual displays will put cigarette packets out of sight, there is no doubt that the Government needs to consider many other measures to make the policy successful. I can think of nothing less attractive than a product that states “Smoking kills”.

As the Scottish Retail Consortium, the Scottish Grocers Federation and the National Federation of Retail Newsagents said in their briefing note detailing their joint positions:

“We believe that this will be a disproportionate measure for all affected retailers, large and small, and will add an undue burden on retail staff. It has no strong evidence base and there is doubt that it will have a significant impact on the number of young people taking up smoking.”

In Iceland, smoking rates have declined, but academics have identified the in-depth work that has been done at community level as the crucial aspect in the successful decline in the number of people who smoke. In Canada, states such as Saskatchewan and Manitoba that have had tobacco display bans for the longest time have seen increases in youth smoking. In Ontario, the greatest reduction in smoking was achieved before a ban was introduced. In New Zealand, a proposal to introduce a ban was rejected by the Prime Minister, whose Government, like this Parliament’s Health and Sport Committee, did not find conclusive evidence that a ban was the most effective strategy for combating youth smoking.

Finally, on the cost of the ban to businesses, there is also much dubiety. The Minister for Public Health and Sport told the Health and Sport Committee that the cost could be as little as £20 per gantry. However, that is just the cost of materials per shelf, not per gantry, and there can be up to seven or eight shelves on a gantry, as well as other fittings. The Scottish Government’s regulatory impact assessment estimated that implementing the ban would cost Scotland’s 11,000 tobacco outlets an average of £1,200 for small retailers, £6,000 for medium-sized retailers and £17,500 for large retailers.

I ask MSPs whether, in these difficult times, they are content to force on small businesses throughout Scotland additional costs and a measure on which there is a lack of any evidence to show its effectiveness in reducing youth smoking.

I move amendment 4.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I draw members’ attention to my membership of the Royal College of General

Practitioners and the British Medical Association, in case that is relevant.

Amendment 29 seeks to anticipate the reaction of the tobacco industry, which will almost certainly press and push retailers to display items that promote their products, albeit—if we pass the bill today—no longer directly. Frankly, the tobacco industry has never respected the spirit of any tobacco control laws and has often taken every possible step to delay or stop their implementation. When that has proved unsuccessful, they have sought ways round the spirit of the law.

I lodged amendment 29 in the light of the experience in Ireland, where new regulations are having to be developed to rein in the tobacco industry’s inventive approach, which involves back lighting, adverts for lighters that clearly relate to a cigarette brand and even the use of the displays that limit sales by age in such a way as to infer that tobacco is available. Make no mistake—the tobacco industry is hugely powerful and has for more than 40 years found its way round successive pieces of legislation. Light tobacco fooled a whole generation into thinking that it was safe to smoke, and in the early part of this decade the industry sold ventilation to the Scottish health minister as an alternative to the ban on smoking in Kenny Gibson’s proposed member’s bill, which I supported.

The need for amendment 29 hinges on whether the tobacco advertising legislation adequately covers the likely response of the industry.

Margo MacDonald (Lothians) (Ind): Is there evidence to show how a campaign to reduce smoking among young people should be presented to achieve a successful result? Should smoking be presented as something that is bad for your health or as something that isn’t cool, to use the vernacular?

Dr Simpson: As far as what we are trying to do in the bill is concerned, the important thing is to denormalise tobacco as a product—to make it something that is not seen as soon as people go into a shop. At the moment, when people go into a shop, the first thing that they see is a massive gantry.

The increase in the size of gantries was a response to the Tobacco Advertising and Promotion Act 2002. Since that legislation was introduced, gantries have increased in size by 50 per cent. That is a classic illustration of the tobacco industry’s response. It has spent a fortune on clever packaging that might display the phrase that Mary Scanlon mentioned, but which also incorporates holograms and uses ultra slim packs. The industry also produces note pads that people

can use. A variety of ancillary things have been developed that promote smoking.

Amendment 29 would give trading standards officers the power to prevent new, subtle forms of advertising that, under TAPA, might not lead to a procurator fiscal taking action for a criminal offence. Amendment 29 would make such advertising an offence, which is important not just in tightening the legislation but in making it easier to implement as part of the continuing relationship between trading standards officers and retailers. By agreeing to amendment 29, we can tighten the bill, simplify its implementation and, for the first time in a generation, ensure that we are one step ahead of the industry rather than always reacting to it. I hope that members will see fit to support amendment 29.

I lodged a supplementary amendment—amendment 29A—after discussions with the Government, which I know has concerns about the bill being challenged. We should not hold our breath—it may well be challenged, whatever happens. The inclusion of the phrase “cigarette lighters” would leave the bill open to the possibility of challenge. That is why I sought permission to lodge amendment 29A.

14:45

Ross Finnie (West of Scotland) (LD): On section 1, Mary Scanlon has been entirely consistent in her argumentation at all stages of the bill, especially in committee. The Liberal Democrats’ position is that the bill is a progressive legislative move, and we support the Government in that. We must tackle the scourge of tobacco in all its manifestations, although we recognise that there is no single solution to the problem of how to reduce consumption, which is enormously disappointing.

Like Mary Scanlon, I find current cigarette packs quite repulsive. However, that revulsion does not appear to be shared by large numbers of our young people, who are not deterred from buying cigarettes. That is why all measures that can be taken to try to remove the enticement to smoke are justified. We will therefore not support amendment 4 and consequently the other amendments in Mary Scanlon’s name.

On anticipating the behaviour of the industry, as Richard Simpson made clear, the industry is remarkable in its resilience and the way in which it seeks to overcome difficulties. Credit to it—it is a commercial business. However, it is right that we should seek to put the issue that Richard Simpson raises on the statute book. I was the only member who supported Kenneth Gibson’s endeavours at stage 2 to pass an amendment similar to amendment 29. I know that the Government would

prefer to approach the issue by way of regulation. That is fine, but that would mean people simply receiving a stern letter from the minister pointing out the substance of the legislation; regulation itself would not necessarily create a criminal offence. In our view, it is better that the bill creates an offence of tobacco advertising, which was its original purpose. Liberal Democrats will oppose Mary Scanlon’s amendments but support Richard Simpson’s.

I turn to the second of Richard Simpson’s amendments, amendment 29A. E-mails to members have raised the issue of whether we will be getting rid of challenge 25. I rebut that. There is only one place in a shop where cigarettes can be obtained, which is at the point of sale. In alcohol displays, it is good that challenge 25 notices are seen across the range of products, but in the case of tobacco, there is only one point of sale, and one notice that makes clear the age restriction and challenge 25 will be perfectly sufficient and will not be able to be abused.

Jackie Baillie (Dumbarton) (Lab): Labour, too, opposes all of Mary Scanlon’s amendments. We do so because we are persuaded that point-of-sale displays are becoming increasingly important to manufacturers as a means of marketing tobacco products to young people. That is backed up by a substantial body of research, which links such displays to smoking behaviour. However, I recognise Mary Scanlon’s concerns about cost. Is the £20 for a gantry or a single shelf? I would be grateful if the minister provided clarity on that important point.

Richard Simpson’s amendments seek to close loopholes that we know, from the experience of Ireland, can be exploited by some in the tobacco industry. Alternative advertising displays, with the branding and colouring of well-known cigarettes, are used to circumvent the ban on point-of-sale displays. We need to close that loophole. I know that the principle underlying Richard Simpson’s amendments is supported by others, such as the cross-party group on tobacco control, the Scottish coalition on tobacco and ASH Scotland. The whole point is to stop advertising tobacco to children at point-of-sale displays in all possible forms. There will be no additional impact on retailers, no extra costs and no extra burden on enforcement officers. The amendments are clear, simple and easily understood.

The Government has suggested that the issue is a matter for guidance, but I am not convinced that that is strong enough. There would be no direct sanctions if the guidance were not followed. We have an opportunity properly to ban displays, and we should take it.

The Minister for Public Health and Sport (Shona Robison): I am encouraged by the fact

that all parties agree that firm action is required to prevent children and young people from becoming smokers. The tobacco display ban has been one of the most contentious provisions in the bill. On the one hand, the Conservatives believe that there is not enough evidence to justify a tobacco display ban; on the other hand, members of the Labour Party believe that we have not gone far enough. We believe that the provisions in the bill and the draft regulations are proportionate.

The Conservatives believe that it is simply not true to say that removing the final marketing tool of the tobacco industry will reduce the attractiveness of tobacco to children and young people. I believe that they are wrong on that. Very few countries have yet introduced a tobacco display ban, and those that have have done so only recently. As with the ban on smoking in public places, we are pioneers. From the work of Cancer Research UK and others, we know that the display of tobacco in the most prominent place in 11,000 shops in Scotland is having an impact on our most vulnerable. It is making a product that kills half of its long-term users more attractive to children and young people. Therefore, I contend that the evidence for banning displays exists. For me, the most compelling point is the need to remove the last advertising loophole. I reassure the chamber that the Government is committed to evaluating the impact of all the provisions in part 1.

I understand that there are concerns about the impact of the policy on our small shops. I have worked closely with retailers and believe that the regulations that we have drafted will both protect children and young people from the harms of tobacco promotion and minimise the impact on small businesses. Our is a proportionate response.

I agree with Richard Simpson that we should do all that we can to prevent the tobacco industry from attempting to circumvent the display ban that is detailed in the bill and the advertising ban that is set out in the Tobacco Advertising and Promotion Act 2002. I understand the concerns about incidents that have occurred in Ireland in response to its display ban, which came into force in July 2009. However, the Scottish display ban will be the most robust in the United Kingdom and will be even more robust than the Irish display ban. Regulations will limit the display of tobacco to 120cm², based on figures that have been provided by retailers showing that each row of a gantry in a small shop is around 15cm high and that the widest section for a tobacco product is 8cm. The loopholes that have occurred in Ireland will not, therefore, occur under the bill. Retailers were concerned that the display ban would impede their carrying out necessary everyday tasks such as stocktaking and cleaning. We have taken that in

good faith and have exempted the display of tobacco for those tasks.

I appreciate the fact that Dr Simpson has tried to craft a future-proof amendment, which he hopes will predict any possible move that the tobacco industry may make to circumvent our wide-reaching tobacco display and advertising bans. However, amendment 29 falls short of achieving that, and there are major concerns about its practical application, as well as drafting concerns. Instead, we will draw up clear guidance on the implementation and enforcement of the bill. I assure the chamber that I will make it clear that the advertising of lighters over gantries and the use of lighting around gantries will not be acceptable.

I am pleased that Richard Simpson has seen sense and, with amendment 29A, is seeking to remove the reference to lighters from amendment 29. If there is evidence of retailers ignoring the guidance, we will revisit the regulations and consider removing exemptions from the display ban. That could be very costly to retailers, as it could lead to tobacco having to be stored under the counter, which I know that retailers do not want. I urge the chamber to allow us to achieve what amendment 29 seeks through regulations and guidance rather than through the bill itself, which could have undesirable and unintended consequences.

The unintended consequence of amendments 31 and 32, which deal with tobacco industry-funded campaigns such as no ID, no sale, would be to limit campaigns that inform customers and retailers of their rights and responsibilities around tobacco sales. On the retailer side, amendment 31 would ban displays that are aimed at staff, such as prompts by tills to remind staff to verify a customer's age; for customers, it would restrict campaigns that are essential to the successful implementation of many of the bill's provisions, including proxy purchase. The amendment would restrict such campaigns by retailers, Young Scot and cancer charities as well as the tobacco industry. In fact, any shop or charity that came up with an idea would have to approach the Government for approval first. Surely the creation of such bureaucracy would not make any sense. I am sure that no one wants that to happen.

I therefore ask Mary Scanlon to withdraw amendment 4 and not to move amendments 5 to 10, 14, 47 and 16. I also ask Richard Simpson not to move amendments 29 to 32.

The Presiding Officer: I call Mary Scanlon to wind up and either press or withdraw amendment 4.

Mary Scanlon: I was sympathetic to Richard Simpson's amendments but, when I read what the

briefings said about overly complicating the bill, I decided that it would be a more commonsense approach to get the Government to work with retailers. Having spoken with a Government adviser, I think that it is for the Government and the retailers to come to an accommodation about what is right for them, and it should be done through regulation and guidance.

Ross Finnie summed up the situation when he said that there is no single solution to smoking. However, unfortunately, the focus of the bill has been the display ban. As parliamentarians, we should be seeking solutions that work and have been proven to work, which is not the case in relation to the banning of visual displays.

I wish to press amendment 4.

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

Members: No.

The Presiding Officer: There will be a division. I suspend the meeting for five minutes.

14:56

Meeting suspended.

15:01

On resuming—

The Presiding Officer: We will proceed with the division.

FOR

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 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, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)

Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)

Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 14, Against 103, Abstentions 0.

Amendment 4 disagreed to.

After section 1

Amendment 29 moved—[Dr Richard Simpson].

Amendment 29A moved—[Dr Richard Simpson]—and agreed to.

The Presiding Officer: The question is, that amendment 29, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 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)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (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)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 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)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 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, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (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)
 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)
 Constance, Angela (Livingston) (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)
 Grahame, Christine (South of Scotland) (SNP)
 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)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (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 60, Against 60, Abstentions 0. I will therefore use my casting vote. In this case, the status quo is the bill, and the amendment would be a change, so I vote against the amendment.

Amendment 29, as amended, disagreed to.

Section 2—Displays which are also advertisements

Amendment 30 moved—[Dr Richard Simpson].

The Presiding Officer: The question is, that amendment 30 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)
 Finnie, Ross (West of Scotland) (LD)
 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)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 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)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 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, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (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)
 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)
 Constance, Angela (Livingston) (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)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (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 60, Against 61, Abstentions 0.

Amendment 30 disagreed to.

The Presiding Officer: Does Mary Scanlon wish to move amendment 5?

Mary Scanlon: We oppose section 2, but given the previous vote I will not move amendment 5.

Amendment 5 not moved.

Section 3—Regulation of display of prices

Amendment 6 not moved.

Section 4B—Purchase of tobacco products on behalf of persons under 18

The Presiding Officer: I exercise my power under rule 9.8.4A to extend the deadline to allow the debate on groups 1 and 2 to be completed.

Group 2 is on offences involving purchase of tobacco products by or on behalf of persons under 18. Amendment 18, in the name of the minister, is grouped with amendments 21 to 23.

Shona Robison: Amendment 18 relates to the changes that were made to the bill at stage 2 to create a new offence of proxy purchase. The offence makes it illegal for someone aged 18 or over knowingly to buy or to attempt to buy tobacco products or cigarette papers for someone who is under 18.

At stage 2, Dr Simpson sought to amend the bill to provide for penalties for second or subsequent offences to be pitched at a higher maximum level. As a general rule, it is not policy to provide different maximum penalties for first and subsequent offences in Scottish statute. Such provisions were abolished or allowed to wither away by paragraph 4 of schedule 1 to the Criminal

Procedure (Consequential Provisions) (Scotland) Act 1995. The policy is, rather, that legislation sets out the maximum level of a penalty and the appropriate amount of the fine is left to the sheriff's discretion, taking into account the circumstances of the case.

In practice, it is highly unlikely that a sheriff would impose the maximum penalty for a first offence unless there were special circumstances. We therefore need to determine whether the maximum level of fine that has been set is appropriate. I have given the matter a great deal of consideration, as I said at stage 2 that I would, and I am satisfied that there is a case for increasing the maximum penalty for the offence of proxy purchase to level 5.

Amendments 21 to 23 apply the presumption as to contents of containers for the purpose of any trial for offences relating to the purchase or attempted purchase of tobacco by persons under 18 and the purchase or attempted purchase of tobacco for persons under 18. The presumption as to contents of containers already applies to offences relating to the sale and display of tobacco products.

I move amendment 18.

The Presiding Officer: I call Dr Richard Simpson. Please be as brief as possible, Dr Simpson.

Dr Simpson: I thank the Government for responding to the debate at stage 2 so well. It is important that we have higher fines, as the current levels are rather low in relation to tobacco and so on. The fact that we are moving on is welcome. I thank the minister.

The Presiding Officer: Minister, do you wish to wind up?

Shona Robison: No.

The Presiding Officer: I am grateful to you.

Amendment 18 agreed to.

Section 5—Display of warning statements

Amendment 31 moved—[Dr Richard Simpson].

The Presiding Officer: The question is, that amendment 31 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. This is a one-minute 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)
 Finnie, Ross (West of Scotland) (LD)
 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)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 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)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 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, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (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)
 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)
 Constance, Angela (Livingston) (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)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (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

MacDonald, Margo (Lothians) (Ind)

The Presiding Officer: The result of the division is: For 60, Against 61. There was one abstention but it seems to have disappeared from the screen.

Amendment 31 disagreed to.

Amendment 32 not moved.

Section 6—Prohibition of vending machines for the sale of tobacco products

The Presiding Officer: Group 3 is on prohibition of use of vending machines for the sale of tobacco—exemption. Amendment 1, in the name of Rhoda Grant, is grouped with amendments 2 and 3.

Rhoda Grant (Highlands and Islands) (Lab): Amendment 1 seeks to allow radio-controlled cigarette vending machines to be retained in

licensed premises. Anyone who wishes to purchase something from such a machine must ask a member of staff to activate it. If the member of staff suspects that the person is under 18, they must challenge them in the same way that they have been trained to challenge young people who try to buy alcohol. After the member of staff activates the machine, the customer has 30 seconds to make the purchase before the machine switches off automatically. The machine also switches off immediately after a single purchase.

Amendment 1 does not allow vending machines in unlicensed premises. Should a licensee or their staff sell tobacco to someone under 18, they will be subject to the penalties outlined in the bill and will also lose their right to have a vending machine. Furthermore, under the amendment, the Government will be able to ban machines through secondary legislation if it turns out that the radio-controlled approach does not work.

I have lodged the amendment because I feel that vending machines are a more secure option than the provisions in the bill. Under the bill, licensed premises are not prohibited from selling tobacco products, which may be sold from behind the bar. I am concerned that that will make them more accessible to children. If a bar is family run and has living premises attached to it, the chances are that children will be behind the bar and have access to cigarettes, which not only puts temptation in their way but leaves them open to bullying and coercion. As a result, amendment 1 is more in keeping with the bill's policy intentions.

I note that the Government has not told Parliament when it will implement the legislation. If it does so within months, the companies involved will not have enough time to diversify, consigning their staff to unemployment; if there is a long lead-in time, young people will have less protection over that period.

I find the Government's decision not to accept my proposal for a pilot of the system unreasonable. After all, if it works, it works; if it does not, the minister will be able to move to ban these machines in the same proposed timeframe. If she does not accept the amendment, many people will be concerned about their jobs. She needs to take that prospect seriously and move quickly to work with the companies involved.

That said, of course, the saving of lives will always outweigh the saving of jobs. However, that is not the reason for amendment 1, which is about providing secure sales to protect young people while tobacco is still legally available. The other amendments in the group are consequential to amendment 1.

I move amendment 1.

The Presiding Officer: I will be able to fit in the four members who wish to speak, if they are very brief.

Michael Matheson (Falkirk West) (SNP): In speaking against amendments 1 and 2, I note that when a very similar amendment to amendment 1 was lodged at stage 2 the committee did not support it.

It is worth bearing in mind that one in 10 of all Scottish 13 to 15-year-olds who smoke regularly access their cigarettes via vending machines. As a result, banning these machines is one of the best ways of ensuring that such a source is not available to them.

I understand the concerns raised by rural communities, where in the absence of a shop the local pub might sell cigarettes. However, under the legislation, those pubs will still be able to store cigarettes behind the counter and sell them to people face to face. The argument that children who live in a pub will be able to access the cigarettes stored behind the counter is somewhat ridiculous; after all, the same argument could be made with regard to access to alcohol, and no one seems to have a problem with that. In that light, I think that the argument is something of a red herring in dealing with what is an important matter.

Moreover, we have no robust evidence to demonstrate that remote-controlled vending machines are a much more secure way of ensuring that young people cannot access cigarettes. I believe that, given the lack of evidence, we should not take such action.

I also note that we do not allow fireworks, solvents, alcohol or other harmful substances to be sold in vending machines. Why should such a deadly product as cigarettes be exempt from that? I believe that we should ban these vending machines and that the bill's approach to the issue is measured and proportionate.

15:15

Jackie Baillie: Rhoda Grant has argued the case for radio-controlled vending machines and I, like other members in the chamber, have had the opportunity to view them in operation. However, we need to balance the impact on businesses of a total ban on vending machines with the wider benefit to public health.

The United Kingdom will implement its ban by October 2011, and it is right that we should keep in step with that. Some have argued that an extension of time would help vending machine operators. I do not believe that because the use of existing vending machines would continue without the safeguards that Rhoda Grant's amendments propose, and that would not be desirable.

That all needs to be weighed against the obvious advantages of a total ban. We know that test purchasing, albeit in a rural area, showed that the operators failed in 23 out of 25 cases. We need to be mindful of that, and of the Parliament's clear desire to remove the possibility of young people purchasing tobacco inappropriately.

It would be helpful for the minister to address two specific areas. I know that she and her officials have had preliminary discussions with vending machine operators, which is welcome. Will she commit to continuing to facilitate discussions about, in particular, two issues that have been raised: putting dispensing machines behind the bar, and the opportunities in the industry for diversification? Such practical support would start to help and it would further address the sustainability of those businesses, while acknowledging the importance of the Parliament's move towards a total ban. For those reasons, Labour will support the Government in putting public health interests first.

Ross Finnie: This has been a vexed issue. As is common with many public health measures, there is a balance. In this case, one has to balance the public health benefit against the legitimate and understandable concerns of those in the vending machine industry who are naturally feeling under threat. Liberal Democrats have considered the industry's representations very carefully, and we are not wholly persuaded that the proposed mechanism is entirely foolproof. We share that view with the British Heart Foundation, the Royal College of Physicians of Edinburgh and Cancer Research UK. We believe that public health is the overriding concern in the debate.

Like Jackie Baillie we think that, given the balance of the argument, the Government has issues to address, and it needs to take a sympathetic view of the support and help that might be afforded by the industry department to those who will undoubtedly be affected by the legislation. On balance, we are persuaded that public health has to be paramount. We invite the minister to take our view into consideration.

Mary Scanlon: We support Rhoda Grant's amendments. Tobacco vending machine sales account for less than 1 per cent of tobacco sales in Scotland. The ban will particularly affect remote and rural areas, where many filling stations, village shops and post offices have closed in recent years. In Orkney and Shetland, there has been a 30 per cent reduction in the number of licensed premises. Staff training on the sale of alcohol is the best that it has ever been.

The explanatory notes say that

"The Scottish Government is aware of only one company operating in Scotland",

but the truth is that 14 companies will go out of business, with the loss of 60 jobs, not 14.

On average, cigarettes purchased from a vending machine are 36 per cent more expensive than those that are bought from a shop, so it is unlikely that young people will use those machines.

A vote against amendment 1 will mean that, as secure stockholding units, vending machines will be removed, and the landlord will sell tobacco from behind the counter. It is a proven fact that cigarettes that are sold from behind the counter are readily accessible. In truth, banning remote or radio-controlled vending machines from licensed premises such as pubs, social clubs, golf and bowling clubs, where the clientele is generally aged over 18, makes tobacco more readily accessible. I trust that those who are speaking against remote and radio-controlled vending machines are speaking from the experience of having seen them in operation in the Parliament. They are successfully and effectively used in many European countries, including Spain and Portugal. We support the amendments.

Patrick Harvie (Glasgow) (Green): I am sorry that I was not able to attend the demonstration of the remote-controlled machine when it came to Parliament, but I have tried to listen to the arguments on both sides.

I have a brief question that I ask Rhoda Grant to respond to in summing up. Half of us, including the Labour group, have just voted for Richard Simpson's amendments to ban various visual cues that promote the acceptability and acceptance of tobacco and smoking in premises. Why does that argument not apply also to vending machines? Why should we not regard them as a visual cue and take the same approach to them that many of us took in relation to Richard Simpson's amendments?

Shona Robison: Before I discuss the amendments in detail, I say that our decision to opt for a complete ban on cigarette sales from vending machines was not taken lightly. I met Scottish vending machine operators in early September last year and I have listened to their concerns and the concerns of the 60 staff who are employed in the sector in Scotland. My officials have continued that dialogue since then. We do not take any job losses lightly.

Mary Scanlon: Will the minister confirm that the explanatory notes were wrong in stating that

"The Scottish Government is aware of only one company operating in Scotland that would be affected by the ban",

and in claiming that a total of 14 staff would have to be made redundant? Does she accept that that was inaccurate?

Shona Robison: We discussed that at length at the Health and Sport Committee and in correspondence, and we have explained the reasons. Despite our extensive attempts to contact the body that represents vending machine operators—the National Association of Cigarette Machine Operators—and to get a clear idea of the number of job losses that would be involved, we were unable to do so. Therefore, our initial figures came from Sinclair Collis, which is one of the bigger companies. Some time after that, when the bill was published, NACMO finally got in touch with us after we had left numerous telephone messages for the individuals concerned. My officials went a long way to try to get information from NACMO. The information that we finally received is that we are talking about 60 jobs. The situation did not arise through a lack of effort on our part, but we now acknowledge, as I did to the Health and Sport Committee, that 60 jobs are involved.

We do not take the decision lightly but, as I have made clear throughout the progress of the bill, I have a fundamental problem with a dangerous and age-restricted product such as tobacco being sold from a self-service machine. We have concluded that a complete ban is the only way in which to be sure that under-18s do not access cigarettes from that source. I am pleased to note from the stage 1 report that the majority of Health and Sport Committee members agreed. The committee states that it is yet to be convinced that the system that Rhoda Grant promotes

“could be made to work in practice across the range of situations in which a vending machine might be installed—for example, in crowded city-centre pubs where there are many distractions for bar staff.”

Rhoda Grant clearly believes that her amendment 1 is the best of both worlds, but I do not agree. The ban might have an impact on the companies that currently sell tobacco from vending machines, but the bill does not prevent them from selling other products from their machines; nor does it prevent pubs and hotels from using vending machines as a dispensing machine—a secure means of storing tobacco behind the counter.

I am happy to delay commencement until October 2011, in line with the Department of Health's approach. I am sure that no one in the Parliament would want Scotland to lag behind England on a tobacco control measure. There are concerns about how tobacco will be sold from licensed premises after the ban. We will continue to work with trading standards officers, the licensed trade and vending machine operators to provide detailed guidance on how tobacco should be sold to address the access issues that Rhoda Grant raises.

The Scottish Parliament's leading position in the UK on public health would be under threat if amendment 1 were agreed to. I therefore ask Rhoda Grant to withdraw amendment 1 and not to move amendments 2 and 3.

Rhoda Grant: I welcome the minister's comments about working with licensed premises and the machine manufacturers to consider diversification and secure ways of selling cigarettes from behind the bar, which is an important part of the argument. I do not intend to press amendment 1 and therefore will not move amendments 2 and 3.

The Deputy Presiding Officer (Trish Godman): Does any member object to amendment 1 being withdrawn?

Members: Yes.

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

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 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, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)

FitzPatrick, Joe (Dundee West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 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)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 14, Against 105, Abstentions 0.

Amendment 1 disagreed to.

Amendment 2 not moved.

Section 12—Tobacco retailing banning orders

The Deputy Presiding Officer: We come to group 4. Amendment 19, in the name of the minister, is grouped with amendments 20, 33 to 35 and 24.

Shona Robison: I will speak to Government amendments 19, 20 and 24, which all relate to powers in the bill that allow courts to ban from selling tobacco retailers who continually break tobacco sales law. Amendments 19 and 20 increase from 12 to 24 months the maximum period for which a person can be banned from selling tobacco. The amendments are a result of my commitment at stage 2 to consider increasing the maximum period for which a sheriff can ban a person from selling tobacco for second and subsequent offences. Although I concluded that it was not appropriate to limit their powers by restricting sentencing in that way, there is a case for increasing the maximum period.

Amendment 24 corrects a typographical error that was noted by parliamentary clerks.

I note the Government's support for Christine Grahame's amendments 33 to 35. Requiring retailers to display banning notices would bolster the registration scheme and could act as a further deterrent to breaking the law.

I move amendment 19.

Christine Grahame (South of Scotland) (SNP): I support the Government's amendments and will speak to my amendments 33 to 35. In general, I welcome the requirement to have a register of tobacco retailers. I pursued the idea originally as a bill proposal for a licensing system. I also welcome the fact that tobacco is now almost, but not quite, being put in the same category as other dangerous products, such as alcohol.

Under my amendments, the sign that would have to be displayed would act as an important reminder of the laws prohibiting the sale of tobacco to underage customers—that is, that it is illegal to sell tobacco products to anyone under

18. It would also remind customers that tobacco was available in that shop.

Amendment 33 would place an additional requirement on any shop that is the subject of a banning order to display a sign stating that tobacco may not be sold in that shop as a result of enforcement action. The sign would contain details of the ban's duration and be displayed in a prominent position on the premises.

The display of such a sign would serve three main purposes. First, it would allow customers and the local community to know that the retailer was banned from selling tobacco. Secondly, it would distinguish between shops that choose not to sell tobacco—for example, Lidl in Scotland has decided not to sell tobacco in its stores—and those that are prevented from doing so by a banning order. Thirdly, it would send a powerful message to both retailers and customers that continued breaking of tobacco sales laws, especially those concerning sales to underage customers, which result in fixed-penalty notices and lead to banning orders, might result in the loss of the right to sell tobacco. It is likely that that would have an additional deterrent effect on retailers who might be tempted to break the law.

The subsequent amendments impose proper penalties if the notice is not displayed.

15:30

The Deputy Presiding Officer: Before I call Richard Simpson, I ask members to be quiet, please.

Dr Simpson: Labour will support all the amendments in the group. We particularly welcome the added flexibility that sheriffs will have to take the banning order up to 24 months, rather than 12—a period that we felt was just too short. We very much welcome that change. We support Christine Grahame's amendments and pay tribute to her for her original work on tobacco.

Amendment 19 agreed to.

Section 12B—Tobacco retailing banning orders etc: appeals

Amendment 20 moved—[Shona Robison]—and agreed to.

After section 12C

Amendment 33 moved—[Christine Grahame]—and agreed to.

Section 13—Offences relating to the Register

Amendments 34 and 35 moved—[Christine Grahame]—and agreed to.

Section 25—Presumption as to contents of container

The Deputy Presiding Officer: Amendment 7, in the name of Mary Scanlon, has already been debated with amendment 4. If amendment 7 is agreed to, I cannot call amendment 21, because of pre-emption.

Amendment 7 not moved.

Amendment 21 moved—[Shona Robison]—and agreed to.

Amendment 8 not moved.

Amendment 22 moved—[Shona Robison]—and agreed to.

Amendment 9 not moved.

Amendment 23 moved—[Shona Robison]—and agreed to.

Section 27—Interpretation of Part 1

Amendment 24 moved—[Shona Robison]—and agreed to.

Amendment 10 not moved.

Section 29—Contractual arrangements for the provision of primary medical services

The Deputy Presiding Officer: We come to group 5. Amendment 11, in the name of Mary Scanlon, is grouped with amendments 12 to 14 and 17.

Mary Scanlon: In 2003, Labour, the Scottish National Party and the Liberal Democrats not only supported the inclusion of measures for commercial providers in the Primary Medical Services (Scotland) Act 2004, but robustly defended those proposals against Scottish Socialist Party amendments. Amendment 11 seeks to retain the commonsense approach of the bill that was agreed by all parties but the SSP only six years ago.

Despite commercial providers being able to set up shop, so to speak, in Scotland, none has chosen to do so, to date. Our ageing population, the increased availability of treatments and increased public expectations all result in increasing demand for general practitioner services, year on year. Despite the acknowledged increased need, the BMA and the Scottish Government propose a measure that is designed to prevent the possibility of alternative sources of provision.

Community Pharmacy Scotland—open all hours in every high street and village in Scotland—stated in its written submission:

“There is no guarantee that the existing practice model will survive for another 10, let alone 60 years and without

the possibility of alternative methods of provision the situation could arise where medical services could not be provided for people living in 'hard to doctor' areas such as remote and rural regions or in areas of deprivation within our cities."

The increase in calls to the Scottish Ambulance Service and in accident and emergency presentations are undoubtedly a result of the new GP contract, which has resulted in many, and increasing, numbers of GPs opting out of providing out-of-hours care.

If part 2 of the bill were to be deleted and existing legislation to remain, GPs could hold surgeries in pharmacies, for example. A vote against the amendments would guarantee monopoly provision by one provider that is represented by one trade union negotiating with Scotland.

The European states that have the most successful health care systems have developed successful partnerships with the private and voluntary sectors not only to provide general medical services but to tackle public health issues.

Scotland has no commercial providers, so Helen Eadie and I visited a walk-in centre at Canary Wharf and a health centre in Tower Hamlets that are both run by the independent company Atos Origin. The walk-in centre is open from 7 am to 7 pm and serves 80,000 employees at Canary Wharf, local people and tourists. It has reduced the amount and financial cost of work absenteeism by reducing preventable ill health, and it allows accessible attendance at GP appointments during the working day. The number of people who present to local accident and emergency units has also reduced significantly. Surveys show that 97 per cent of patients have found the care to be good or excellent, and the primary care trust has a member on the Atos board to ensure good partnerships and working relations.

In Tower Hamlets, which is the second-most deprived area in London, the primary care trust discontinued the previous contract for the health centre GPs because they did not meet key performance indicators and did not serve the needs of the community, more than 30 per cent of whom are Bengali. If Atos failed to achieve the required standards for patients, it would simply lose its contract.

The primary care trust confirmed that Atos has better software and better attention to detail. It gives monthly reports to NHS London and has better data management. The health centre regularly meets key performance indicators on issues such as complaint response and generic prescribing. More focus is placed on addressing health inequalities, marketing is better, staff turnover is lower and continuity of care is better, because the provision of doctors and staff is more

stable. The centre meets all its targets for health checks, immunisation and screening and the management of chronic disease has improved considerably.

The Deputy Presiding Officer: You should finish now, Ms Scanlon.

Mary Scanlon: People often do not present early for diagnosis because taking time off work to see a GP can be difficult, if people commute to work, for example. A walk-in centre allows for early presentation.

I fully support the current independent contracting of GP services in Scotland and commend the excellent work that is done day and daily.

Finally, one regret from the London visit was that we could not see the Atos mobile units in rural areas, because of time constraints.

I move amendment 11.

The Deputy Presiding Officer: I use my power under rule 9.8.4A(c) of standing orders to extend the deadline for debating group 5, to allow the debate to be completed.

Ross Finnie: I will be brief. Liberal Democrats perfectly accept that we voted for the Primary Medical Services (Scotland) Act 2004, but the notion that members who voted for a bill six years ago are not entitled to reflect on current circumstances is nonsense. I have no doubt that I might now have reservations about some bills that I supported—genuinely—in 1999. That is just a fact, so we should not make such points.

Mary Scanlon's argument has been entirely consistent. She and her Conservative colleagues are entitled to support moves in the health service that they believe only the private sector can achieve. Some of her suggestions could be provided in general practice—the bill will not impede that.

David McLetchie (Edinburgh Pentlands) (Con): The argument is not about whether the private sector provides such services, because GPs in existing practices are members of the private sector. The issue is what model is used in the private sector. Ross Finnie must not confuse the argument.

Ross Finnie: I am not sure whether that lecture has greatly improved my view on whether to support the amendments—if that was the intervention's intention. I know that David McLetchie always seeks to garner votes, particularly for lost causes.

What is at issue is our perception of the development of general practice. Of course, we all have grave reservations about the outcome of some of the contractual arrangements that have

been entered into. However, with the exception of the Conservatives—who take a different, and perfectly legitimate, approach to the issue—members around the chamber see that the objectives can be achieved in a health service that does not necessarily have to accommodate the private sector. The Liberal Democrats will oppose all the amendments in Mary Scanlon's name.

The Deputy Presiding Officer: I call the minister.

Nicola Sturgeon (The Deputy First Minister and Cabinet Secretary for Health and Wellbeing): I had expected other contributions to the debate, Presiding Officer.

Mary Scanlon may find this unexpected, but I thank her for lodging the amendments and acknowledge her consistency and sincerity in doing so. Her amendments are similar to the stage 2 amendments that led to a high-quality debate at the Health and Sport Committee; in fact, it was one of the best committee debates in which I have taken part.

That said, we will oppose Mary Scanlon's amendments because their effect would be to delete part 2 of the bill, which would undermine our objective of ensuring that all holders of primary medical services contracts—often the first and only point of contact between a patient and the national health service—are directly involved in the NHS. The bill expects contract holders to demonstrate that, first through the involvement of a medical practitioner or other health care professional, in the case of section 17C contracts, and secondly through the involvement of all contractors in the day-to-day provision or running of the medical services.

Members will be aware that I agreed to a stage 2 amendment that would leave open the possibility of health care professionals other than doctors holding GMS contracts in the future. The Health and Sport Committee asked for that key flexibility, which is most likely to apply to nurses, in its stage 1 report.

The stage 2 committee debate to which I referred was so good because it avoided some of the oversimplifications that have, at times, characterised the debate. Before any member rushes to intervene, I say that I am sure that I have been guilty at times of contributing to that oversimplification.

I agree entirely with the points that Ross Finnie made, and I am sure that he will agree that the debate is not simply about public versus private. In the main, GPs are independent contractors. The bill will not prevent companies from holding contracts, but it specifies the criteria that companies must fulfil, of which the most important

are the involvement criteria. The criteria apply consistently to all forms of contract holders.

The best way in which to characterise the debate is that it comes down to a choice between wanting the people who provide our primary medical services to be directly involved in running those services, or saying that it is okay for them to have a more detached and arm's-length relationship with the NHS. Given the importance of primary medical services, I take the former view.

Mary Scanlon referred to a number of the flexibilities to which the commercial model has led south of the border. Ross Finnie was absolutely 100 per cent correct on the matter: in many respects, those flexibilities are to be welcomed, but they neither depend on nor are made more likely by the kind of model that the Tories advocate. For example, there is nothing in the bill to prevent the kind of development of community pharmacies that Mary Scanlon described. An important priority is to prevent patients from unnecessarily turning up at accident and emergency departments. We want to advance that regardless of the contractual arrangements.

Mary Scanlon: Community pharmacies have stated that, for example, high street chemists or Boots the Chemist could not employ GPs to hold surgeries on their premises. Are they right or wrong?

Nicola Sturgeon: If Mary Scanlon reads the bill, as I know she has, she will see that any contract holder has to satisfy the involvement criteria. If they satisfy those criteria, they can hold a contract. That is the important point in the debate. We are not discriminating between different types of contract holder, but are stipulating involvement criteria, which is fundamental to delivery of the NHS services with which most patients have the greatest amount of direct contact.

If Mary Scanlon chooses to press her amendments—as I suspect she will—for all those reasons and many more, I ask members to vote against them.

Mary Scanlon: I say to the Liberal Democrats that there is nothing to reflect on. There has been no change over the six years since the passing of the Primary Medical Services (Scotland) Act 2004; we have no commercial providers. Helen Eadie and I had to get on to a train to London to find one, because they do not exist in Scotland. I did not refer only to private providers. In recent years, Community Pharmacy Scotland has offered enormous benefits, providing minor ailments services and surgeries on our high streets. It was one of the main opponents of the approach that is proposed, because there cannot be a GP surgery on the high street unless the doctor owns the pharmacy.

15:45

The debate at stage 2 was excellent; I thank the cabinet secretary and other members of the Health and Sport Committee for their contribution to it. We should all be proud of that.

Should the opportunities for different types of provision not remain, and should the Parliament ban commercial providers of GP services, we will be denying patients throughout Scotland access to modern health services that are accessible during the working day. I will press amendment 11.

The Deputy Presiding Officer: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
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 Boyack, Sarah (Edinburgh Central) (Lab)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
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 Cunningham, Roseanna (Perth) (SNP)
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 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
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 Foulkes, George (Lothians) (Lab)
 Gibson, Kenneth (Cunninghame North) (SNP)
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 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)

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 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
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 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
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 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
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 Robison, Shona (Dundee East) (SNP)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 15, Against 104, Abstentions 0.

Amendment 11 disagreed to.

**Section 30—Section 17C arrangements:
 persons with whom agreements can be made**

The Deputy Presiding Officer: Amendment 36, in the name of Helen Eadie, is grouped with amendments 37 to 45.

Helen Eadie (Dunfermline East) (Lab): At stage 2, the cabinet secretary said:

"I have sympathy with the motive behind Richard Simpson's amendments, they contain certain key terms such as 'community co-operative', 'social enterprise', 'not-for-profit basis' and, indeed, 'community' that are not defined anywhere in law. I take Helen Eadie's point that there are different forms of community co-operative, but the fact is that we are trying to pass legislation and need to provide a legal definition of such terms.

As I said earlier, I believe that the Government amendments provide a large proportion of the flexibility that members are looking for. If Richard Simpson agrees to withdraw amendment 74 and not move the others in this group, I will be happy to continue the discussion to see whether we can do anything more to close the gap between the Government's position and the views of committee members, certainly Labour committee members. I cannot give an absolute guarantee that we will be successful in that, but I am certainly willing to continue to discuss the matter and see what is possible."—[*Official Report, Health and Sport Committee*, 18 November 2009; c 2439.]

I waited until the last minute to lodge amendments, to see whether the cabinet secretary would do anything more to close the gap by lodging amendments. There is no evidence from her that there has been any further movement on the issue, so my amendments seek to address the shortcomings that were discussed at stage 2.

At that point, the principal issue from the perspective of the cabinet secretary, on behalf of the Government, was defining those who are eligible to hold a primary medical services contract. At stage 2, the cabinet secretary lodged amendments that expanded the definition to include any company, rather than only a company limited by shares. She said that that will allow many social enterprises, rather than only companies limited by shares, to hold such a contract, as long as they meet the other criteria that are set out in the bill, including that a medical practitioner, for a GMS contract, or a health professional, for a section 17C contract, be one member of the company.

The cabinet secretary informally consulted some voluntary sector representative bodies, which broadly welcomed her amendments. However, reservations have been expressed, and I have consulted further with colleagues in the world of

community co-operatives and social enterprises, who welcome my amendments, which would put beyond doubt who would be eligible to establish the arrangements as they are envisaged.

My concern is that the cabinet secretary might unintentionally be opening a loophole by allowing any company to operate, which would provide for companies that do not have community benefit at their heart. At the heart of the matter is the question about what is to be done with the profits. Are they to be reinvested in the community or in the practice, or are they to be shared by the doctors themselves? If the amendments were to be agreed to, the phrase "a qualifying charity" would remove that dubiety by stating clearly that the profits would not return directly to any one individual but would be reinvested in the community and that, at dissolution, the assets would be shared within the charity sector and not be disposed of to any individuals.

During our visit to Kinloch Rannoch earlier this week, Health and Sport Committee members saw at first hand how a community co-operative can empower and address the concerns of remote and rural communities. The community co-operative or "qualifying charity" would employ an appropriately qualified medical team.

The danger of following the lead of the Scottish Government is that doing so will create the unintended consequence of permitting any sort of company to become involved, with a loophole being opened to the private sector that I do not believe represents the intention of Parliament, and which would have exactly the opposite outcome to that which is desired by the British Medical Association.

If Italy can show the way, with 7,000 social or community co-operatives, why do we not follow that approach in Scotland? The Friendly Societies Act 1992 was updated in 2003 to allow the appropriate medical team to serve on the governing body of the appropriate qualifying charity.

I hope that members will give credence to the establishment by the previous Labour Administration of Co-operative Development Scotland, and that they will strike a blow today in order to give a further green light to the establishment of health co-operatives in Scotland.

I say to Mary Scanlon, in the nicest possible way, that we need to test the Government on its assertions. With the changes that the Health and Sport Committee has made to the bill and those that the Parliament is making today, it will not only be the British Medical Association that will benefit from the eventual legislation. If we support my amendments and the Government's amendments, we will enable the wider community to benefit from

the bill, and the work of the Health and Sport Committee and the Parliament will have been worth while.

I move amendment 36.

The Deputy Presiding Officer: I ask members to be a little bit quieter, please.

David McLetchie: We will oppose Helen Eadie's amendments 36 to 45 for the simple reason that, if the Labour Party and the Liberal Democrats had the courage to support the legislation that they put through Parliament barely six years ago, as my colleague Mary Scanlon pointed out, there would be no need for the elaborate constructs that Helen Eadie has outlined.

Instead, there has been a complete failure of political will, an appalling act of political cowardice and a failure to recognise that the legislative measures that this Parliament passed in 2004 and the equivalent Westminster legislation were an integral part of the negotiation of the last GP contract, which was done on a United Kingdom basis—a contract which, it turns out, has not served the best interests of patients, particularly in relation to out-of-hours provision, while it has enriched the general practitioners who are its primary beneficiaries and who, as a result of the sucking up and pandering to them by the cabinet secretary, are now trying to close down the alternative option of other people providing superior services at less cost to the taxpayer.

The measures are all about the vested interests of people who want to preserve their monopoly of service provision at taxpayers' expense. The vested interests that the Parliament should be serving are those of the patients who are treated by the NHS, not those of a particular model of provision.

Ross Finnie: I will address the matter from a different angle.

I am deeply sorry because, as a matter of principle, Liberal Democrats would have no difficulty in including charities and co-operatives, which Helen Eadie has consistently advocated. Indeed, we were very sympathetic to the points that were raised by Richard Simpson at stage 2. However, today's debate is not consideration of the principles of the bill, but stage 3 consideration of amendments. I also deeply regret that the detail that has been provided in today's amendments was not available at stage 2—or between stages 2 and stage 3—when the matters to which I am about to refer might properly have been addressed.

From reading amendment 36, it is clear that "charity" would fit easily as a further category within new section 17CA(1)—which section 30 of

the bill will insert into the National Health Service (Scotland) Act 1978—after the categories "a qualifying partnership", "a qualifying limited liability partnership" and "a qualifying company". However, over the page in new section 17CA(2), which provides definitions of what constitutes a qualifying partnership, qualifying limited liability partnership and qualifying company, amendment 37 seeks to insert a definition of what would constitute a qualifying charity that is wholly inconsistent with the other definitions that exist in sections 17CA(2)(a), 17CA(2)(b) and 17CA(2)(c). I cannot see that that will be other than a cause of confusion. More important, the result will be to discriminate against contractors who come under those other categories. Therefore, I do not think that amendment 37 is a competent amendment for a stage 3 debate.

With regret, we cannot support Helen Eadie's amendments 36 to 45 because we do not believe that at this stage—and without proper consideration and consultation—we should include in the bill provisions that we believe would not be effective in law.

Jackie Baillie: The Scottish Government has previously indicated its commitment to co-operatives. We believe that community co-operatives with the appropriate health professionals can provide a suitable model for a PMS contract that would be entirely in keeping with the bill. If the cabinet secretary is not minded to support Helen Eadie's amendments 36 to 45, will she confirm that, if a community co-operative is also a charitable body, it will be eligible to hold a contract under the bill?

Nicola Sturgeon: I will respond first to Jackie Baillie's question. If a community co-operative is also a charitable organisation—and if entering into the agreement is not at odds with the basis of its charitable status—the community co-operative will be able to hold such a contract provided that it fulfils the involvement criteria that are laid down in the bill. I think that we clarified that point at stage 2.

I thank Helen Eadie for lodging amendments 36 to 45: I certainly respect her motives for doing so. As Ross Finnie does, I have some sympathy for the notion that charities should be able to hold such contracts, but the bill will already allow many charities to enter into GMS or section 17C contracts, provided that the charity fulfils the criteria that apply to all contract holders. However, we will not support Helen Eadie's rather complex amendments partly because—as Ross Finnie and Mary Scanlon have said—her amendments are in very different form to the amendments that we considered at stage 2, so there has not been the opportunity to scrutinise the detail of them.

In addition, amendments 36 to 45 include some inconsistencies that, I believe, could put them outwith the competence of the Parliament. The first inconsistency is that, for a qualifying charity, the amendments do not require that all the trustees of the charity should meet the criteria on involvement in patient care. Instead, the amendments would require that a minimum of one trustee be involved in patient care. That inconsistency would undermine a key principle of part 2, which is that all those who are party to a primary medical services contract should have direct involvement in patient care.

The second inconsistency is that, under amendment 42, the qualifying charity's trustees would all be required to reside in the area to which the contract related. Such a residency requirement seems to be discriminatory and would create an uneven playing field in respect of bidding for contracts, given that the residency requirement would not apply to other categories of providers. In my view, that lack of consistency in the treatment of contractors would carry the real and significant risk of putting the bill outwith the legislative competence of the Parliament on the ground that the provisions might not be compatible with European Union law, in particular the European treaty principles of equal treatment, transparency and non-discrimination.

Finally, let me reiterate the point that I made at the outset. Under the bill as it stands, many charities will already be able to enter into a GMS contract or section 17C agreement with a health board, albeit that they will need to fulfil the involvement criteria.

Although I understand and have some sympathy with Helen Eadie's comments, I ask members, for the reasons that I have outlined, to vote against her amendments.

16:00

The Deputy Presiding Officer: I call Helen Eadie to wind up and to press or withdraw amendment 36—please be as brief as possible.

Helen Eadie: The cabinet secretary's final point was about European Union law. I encourage her to look at the EU law that has recently been established on the formalities of co-operatives and the co-operative movement. We need only look at Italy, which has 7,000 co-operatives, where it is definitely the case—

Nicola Sturgeon: I respect the point that Helen Eadie makes, but will she concede that my point about legality is not about the legality of social enterprises or co-ops, but about the legality of discriminating through the bill by setting criteria for charities that are different from those for other

providers? It is that that would threaten the legality of the bill.

Helen Eadie: The cabinet secretary needs to ask herself whether all the companies that will be involved in the provision of primary medical services will be subject to the same scrutiny. I do not think that that point holds up. The cabinet secretary is saying that she will allow the private sector to operate differently from the co-operative sector.

Nicola Sturgeon: I am grateful to Helen Eadie for giving way again, but the point is that under the bill, all potential contract holders must meet the same involvement and eligibility criteria. The bill does not discriminate between potential contract holders, but Helen Eadie's amendments would introduce such discrimination by making special provision for charities.

Helen Eadie: With respect, if the cabinet secretary truly wanted to empower and enable communities to address the particular social and rural problems that they face, the political will would exist to find a way to do that. I am certain that if we were to study European law carefully—as every member knows, I am not averse to studying European law in some detail, as I have proved on many occasions—[*Interruption.*]

The Deputy Presiding Officer: Order.

Helen Eadie: In relation to the points that David McLetchie made, it is extremely hypocritical of his party, which instigated a debate about the use of mutual co-operatives in the water industry, to oppose such an approach in the health sector.

David McLetchie: Does Helen Eadie acknowledge that if the law remains as it is, her preferred model would be legally possible, as would other options? I am not arguing against her model. We in the Conservative party are saying that if Labour members had the courage to support their own legislation, Helen Eadie's amendments would not be necessary.

Helen Eadie: David McLetchie's point is a political objection; it is not about the hard realities that people in places such as Kinloch Rannoch and other parts of Scotland face. He wants to score political points—he does not want to address the issues. [*Interruption.*]

The Deputy Presiding Officer: Order.

Ms Eadie, I am afraid that you will have to sum up now.

Helen Eadie: If the rest of her party was as genuine as Mary Scanlon is in committee meetings, I would give Mr McLetchie some credence, but it is not.

Finally, I turn to Ross Finnie's point about qualification. It is not good enough for his party not

to be involved in enabling and empowering communities. When Willie Rennie, Jim Tolson and the electorate in Fife find out what is happening in the chamber today, I am sure that they will read the *Official Report* with great interest.

The Deputy Presiding Officer: Are you pressing or seeking to withdraw amendment 36?

Helen Eadie: I am pressing it.

The Deputy Presiding Officer: I thought so.

The question is, that amendment 36 be agreed to. Are we agreed?

Members: No.

The Deputy 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)
 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)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (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)
 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)
 Constance, Angela (Livingston) (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)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 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)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 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)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 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, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 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 Deputy Presiding Officer: The result of the division is: For 45, Against 76, Abstentions 0.

Amendment 36 disagreed to.

Amendments 37 to 39 not moved.

The Deputy Presiding Officer: Amendment 25, in the name of Ian McKee, is grouped with amendments 26 to 28.

Again, I exercise my power under rule 9.8.4A to extend the deadline for the completion of the debate on groups 6 to 8. That will reduce the time available for the debate on the motion to agree the bill, so members who are participating in the debate may wish to start changing their speeches and cutting big swathes out of them.

Ian McKee (Lothians) (SNP): It will be difficult to follow Helen Eadie's spirited contribution, but I will try.

The philosophy of the health service in Scotland is that it is a mutually and publicly owned service. Allowing commercial firms to run GP practices goes against that philosophy and I support part 2 of the bill, which aims to stop that happening. However, there is a loophole, which I seek to close with my amendments. As the bill stands, if a medical practitioner—or other health care professional—regularly performs or is engaged in the day-to-day provision of primary medical services, a health board may enter into an agreement with them to provide primary medical services in that health board area. However, a person or persons could apply for such a contract when the services in which they are personally engaged are hundreds of miles away. Those people could also apply to provide services in many areas, all far from each other. Already, in England, one such combination of professionals runs about 40 GP practices in that way. There is little obvious difference between health professionals engaging in such activities and commercial companies operating in the same way.

Amendments 25 and 27 provide that contractors are acceptable only if their regular involvement in patient care will be by virtue of the agreement being negotiated. Amendments 26 and 28 provide that services that are supplied outside a prescribed geographical area should be disregarded when considering eligibility, unless there are specific circumstances in which that should not happen. Amendments 26 and 28 also prescribe which periods of absence from day-to-day provision of services may or may not be taken into account. For example there is an obvious difference, once a contract has been signed, between absence for some months due to maternity entitlement and absence for a similar

period for commercial reasons. If adopted, the amendments will strengthen the bill. I commend them to the chamber.

I move amendment 25.

The Deputy Presiding Officer (Alasdair Morgan): I am afraid that, under standing orders, I can call only those who have a right to speak on the amendments; therefore, I call the minister.

Nicola Sturgeon: I shall be brief. The amendments introduce regulation-making powers to allow ministers to specify to what extent the sufficient involvement criteria must be satisfied in relation to the contract being entered into, and to restrict the criteria by reference to a geographical area such as a health board area. They do not require ministers to make the regulations—they give us the power to do so. At stage 2, I undertook to have discussions about stage 3 amendments that would further specify the involvement criteria. These amendments reflect the outcome of those discussions and I am content for the amendments to be agreed to.

The Deputy Presiding Officer: The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Allan, Alasdair (Western Isles) (SNP)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Campbell, Aileen (South of Scotland) (SNP)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (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)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Kidd, Bill (Glasgow) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 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)
 McLaughlin, Anne (Glasgow) (SNP)

McMillan, Stuart (West of Scotland) (SNP)
 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)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 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)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)

McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

ABSTENTIONS

Crawford, Bruce (Stirling) (SNP)

The Deputy Presiding Officer: The result of the division is: For 59, Against 61, Abstentions 1.

Amendment 25 disagreed to.

Amendments 26, 40 and 12 not moved.

Section 31—Eligibility to be contractor under general medical services contract

Amendments 41 to 44, 27, 28, 45 and 13 not moved.

Section 32—Orders and regulations

Amendments 3 and 14 not moved.

Section 35—Short title and commencement

The Deputy Presiding Officer: We move to group 8, on the commencement of part 2. Amendment 46, in the name of Jackie Baillie, is the only amendment in the group.

Jackie Baillie: I lodged amendment 46 in response to the cabinet secretary's letter to all members indicating that a challenge to part 2 has been lodged with the European Commission. Whether or not members agree with part 2—we know the Tories' position on it—the challenge is to be regretted, as it will have the effect of preventing the immediate implementation of the bill. In fairness, the cabinet secretary said in her letter that she would reflect on the outcome of the Commission's process before considering how to proceed. The purpose of amendment 46—which I contend is tightly written in relation to part 2—is to ensure that that part of the act is not introduced until the Commission's process is finished.

I understand that the cabinet secretary may have considered lodging a similar amendment. I am sure that she will tell me that there are unintended consequences to amendment 46. Perhaps, after that, I can respectfully invite the cabinet secretary to set out clearly how she

intends to deal with the referral to the Commission.

I move amendment 46.

Nicola Sturgeon: I thank Jackie Baillie for lodging amendment 46—I know that she is trying to be helpful and I am grateful to her for that.

I wrote to the Health and Sport Committee on 18 January, advising it that the European Commission was looking into part 2 in relation to EU procurement rules and had asked the UK Government, as the relevant member state Government, for information. A copy of that letter is in the Scottish Parliament information centre. We have worked closely with the UK Government in responding to that inquiry, and I emphasise to the chamber that I am confident that the proposals in part 2 do not infringe European procurement law. We have provided a robust response to the Commission in support of that view.

The effect of amendment 46 would be that part 2 could not be commenced while the Commission was pursuing its inquiry. I agree with that in principle. In my letter to the Health and Sport Committee, I gave a commitment that I would have regard to any response from the Commission in planning the commencement of part 2. Indeed, if the bill is passed today, there will be the usual four-week standstill period for royal assent, and the general rule is to allow at least two months to pass after royal assent before commencement. Therefore, there is an initial window of at least three months during which there will be no commencement of the provisions anyway. We hope that we will hear back from the Commission within that period. Although there is no obligation on the Commission to respond within that time, I understand that it aims to respond to such inquiries within 10 weeks. If the Commission has closed the case by that stage, there will be no problem; if it has not, I will continue to have regard to the Commission's position in planning commencement. I give an undertaking to update Parliament on the position before any decision is made to commence. I am sure that Parliament appreciates that it is not in the Government's interest to commence legislation prematurely while there are outstanding inquiries that may result in proceedings being taken.

16:15

I do not believe that the amendment is necessary. Further, as Jackie Baillie anticipated, there are reasons why including it in the bill would be problematic. First, Parliament would be including something in the bill that implies that it thinks that the bill is unlawful, which is problematic because Parliament cannot pass bills that are unlawful. Secondly, and more fundamentally, the

amendment would leave the door wide open to anyone who wanted to stop the provisions ever coming into force, because all that they would have to do is keep raising spurious complaints with the European Commission. It would also set an unhelpful precedent for future legislation.

Given the assurances and undertakings that I have given the chamber, and the unintended consequences that I have outlined, I ask Jackie Baillie not to press the amendment. If she does so, I ask members to vote against it.

Jackie Baillie: I am content with the clarification from the cabinet secretary. It was important to have that placed on the record. As that has been done, I seek leave to withdraw the amendment.

The Deputy Presiding Officer: Jackie Baillie has sought permission to withdraw amendment 5. Is that agreed?

David McLetchie: No.

The Deputy Presiding Officer: The question is, that amendment 46 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 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, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)

Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 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)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)

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)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 14, Against 105, Abstentions 0.

Amendment 46 disagreed to.

Schedule 2

MINOR AND CONSEQUENTIAL MODIFICATIONS

Amendments 47 and 15 not moved.

Long Title

Amendments 16 and 17 not moved.

The Deputy Presiding Officer: That concludes consideration of amendments.

Tobacco and Primary Medical Services (Scotland) Bill

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on motion S3M-5560, in the name of Nicola Sturgeon, on the Tobacco and Primary Medical Services (Scotland) Bill. Before the minister opens the debate, I call on the Cabinet Secretary for Health and Wellbeing to signify Crown consent to the bill.

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): For the purposes of rule 9.11 of the standing orders, I wish to advise the Parliament that Her Majesty, having been informed of the purport of the Tobacco and Primary Medical Services (Scotland) Bill, has consented to place her prerogative and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

16:19

The Minister for Public Health and Sport (Shona Robison): I am delighted to open the debate on the Tobacco and Primary Medical Services (Scotland) Bill, which will reform two areas of health legislation. It will update controls on the sale and display of tobacco and smoking-related products and it will amend and clarify the eligibility criteria for providers of primary medical services.

This is important legislation, and I am grateful to all who have helped to shape it—the bill that we have considered today and which I hope that we will pass is better for their involvement. I hope that members will acknowledge that, although differences might remain, we have been willing to listen throughout the process and to give ground, where we thought it appropriate to do so. The changes that have been made to both parts of the bill, particularly at stage 2, are testament to that.

I offer particular thanks for their thorough scrutiny of the bill to the Health and Sport Committee, the Finance Committee and the Subordinate Legislation Committee. The stage 1 report and the valuable discussions that took place at stage 2 have undoubtedly strengthened the bill. I also thank the committee clerks, who have worked so hard to support the committees' work, our own officials in the bill team and the Government and parliamentary legal teams, whose endeavours on this short but complex bill have been invaluable.

The cigarette as a product has, more than any other thing, blighted the health and shortened the lives of the people of Scotland. Too many young

people still take up smoking each year, and smoking prevention must remain a top priority if Scotland's health is to be improved and inequalities are to be reduced.

The health risks that are associated with smoking are clear and irrefutable. It is evident from the contributions that we have heard, today and throughout the passage of the bill, that, although we might differ on the detail, we all agree about the need for the Parliament to show leadership in protecting young Scots from the devastating impact of tobacco.

The discussions that have taken place during the passage of the bill, and the amendments that have been made, have undoubtedly made the process of making Scotland smoke free all the more possible.

In particular, the introduction at stage 2 of new offences of proxy purchase and underage purchase—which are substantive changes that we were happy to support—have served to create a greater balance of responsibility between tobacco retailers and underage purchasers or those who seek to circumvent the law by facilitating the purchase of tobacco for underage young people.

Although I sense that many of the measures that the bill contains, including the tobacco retailer registration scheme and the new regime of fixed-penalty notices and banning orders, are broadly welcomed, I am conscious that differences of opinion remain, particularly in relation to the ban on displays and the sale of cigarettes from vending machines. The arguments for and against legislative action in those respects have already been fully aired, and no doubt will be again during this afternoon's debate. However, we remain convinced of the need for legislative action. I can only reiterate that the decision to legislate on those and other matters in the bill was not taken lightly.

We will continue to work closely with business interests and other stakeholders throughout the implementation process. For example, there will be an opportunity to provide input on the development of the regulations and guidance that will underpin the legislation, and on the evaluation programme to assess the impact of the measures that will be put in place. There is no doubt in my mind that, as part of our wider tobacco control strategy, the proposed reforms of the law relating to the sale and display of tobacco will help to protect future generations from smoking-related harm. Moreover, if the bill is passed it will reinforce the Parliament's position as a world leader in tobacco control and in public health more generally—that is important.

I turn briefly to part 2, which the Cabinet Secretary for Health and Wellbeing will cover more

fully in her closing speech. The proposals for primary medical services will mean a significant step forward in achieving a mutual National Health Service in Scotland, and in protecting the health of the people of Scotland.

We have listened carefully to the arguments and comments from stakeholders and members at each stage of the bill. As a result, the Government introduced further flexibility at stage 2, which will allow us to adapt to changes that may lie ahead, and which widens the scope of the provision on who is eligible to hold a primary medical services contract. However, we strongly believe that the core provisions that require contract holders to have a direct involvement in patient care are fundamental to ensuring that GP services in Scotland continue to be very much patient centred.

I commend the bill to Parliament. It is an important step in the direction of a smoke-free Scotland, and I thank everyone who has been involved in it for their participation.

I move,

That the Parliament agrees that the Tobacco and Primary Medical Services (Scotland) Bill be passed.

16:24

Dr Richard Simpson (Mid Scotland and Fife) (Lab): It is almost 60 years since Sir Richard Doll produced his groundbreaking paper on the ill effects of smoking. During that time, the number of smokers has been reduced from 70 per cent to around 22 per cent of the population. However, as members are well aware, smoking-related deaths still account for some 13,000 of the 54,000 annual deaths in Scotland. That is almost one in four deaths—it is four times the number of deaths from alcohol, and 26 times the number of deaths from drugs. The figures for women smoking are particularly alarming: lung cancer rates are rising among women while they are falling among men.

Although the Scottish schools adolescent lifestyle and substance use survey has shown a welcome reduction in smoking in boys—from 30 per cent to 12 to 14 per cent—it has shown a reduction to only 18 per cent in girls. Smoking has become a major factor in health inequalities. More than 40 per cent of those in the lowest socioeconomic group still smoke, compared with about 12 per cent of the richest. All of that means that we must continue to make efforts of the sort that are included in the bill to try to achieve a smoke-free Scotland.

The Tobacco Advertising and Promotion Act 2002 was an important step. It is regrettable that we did not go as far as I would have liked today proactively to ensure that the tobacco industry does not circumvent the spirit of the law. I know

that ministers intend that to be the case, but it is important that we monitor the situation closely and ensure that any attempts to get around the spirit of the law are quickly stamped on. As I said, it would have been better to agree to the amendments that we lodged. Ireland has certainly had considerable problems.

We came to a reasonable conclusion on vending machines. I hope that ministers will indeed continue to pursue discussions with Scottish producers and assist them in diversifying and protecting the jobs that exist in Scotland. It is regrettable that there was initial confusion about the number of jobs, but I have said publicly and I say again now that the Government cannot be entirely blamed for that, because the national response of the industry was, to say the least, tardy and unhelpful.

The process of interaction between the Government and those who submitted evidence to the committee and assisted us strengthened part 1 considerably. The requirement on local authorities to make their test purchasing programmes clear is important, because citizens will be able to see precisely what their local authority is doing. The proxy purchasing provisions, the ability to confiscate tobacco from underage smokers and the new flexibility in the fine levels and the length of any ban all toughen the bill and the Government's support for those measures was welcome.

I hope that the regulations will anticipate the industry's attempts to get round the important measures on display. We need further clarification. My one regret is that we have not had a demonstration. I offered that, as one of my constituents was keen to provide a site for a demonstration. I still urge the minister to consider pursuing that in completing the discussions with the industry on the precise nature of the covers that are to go on the gantries.

Part 1 is one more step towards a tobacco-free world. Unlike alcohol, tobacco has no health benefits, so it is perhaps not surprising that there has been a largely consensual approach. If the measures mean that more smokers give up and, just as important, that fewer young people take up smoking, we will have taken one more step towards better public health. Despite the industry's protestations that it is not trying to encourage new smokers, it manages to recruit almost as many smokers every year as the number who die from smoking-related conditions.

Part 2 is welcome in so far as it takes future-proofed powers to extend general medical services contracts to other health professionals. That allowed Labour to support part 2. However, I am concerned about the way in which general practice is moving and I do not believe that the bill

addresses the central problems that the Parliament will face. We are moving—quite rightly, I believe—towards having far more salaried practitioners. I have no objection to that. Indeed, I welcome it. However, what is happening with sessional doctors? We have moved from having a small percentage of sessional doctors—about 5 per cent—to 20 per cent in England and 11 per cent in Scotland.

The Deputy Presiding Officer: If the member could wind up, that would be helpful.

Dr Simpson: We need to monitor that increase carefully.

We welcome the completion of the bill, but we will monitor its effect closely to ensure that we retain our central focus, which must be that every patient in Scotland has an equitable service provided in the primary care sector.

16:29

Mary Scanlon (Highlands and Islands) (Con): Like others, I thank the clerks, witnesses and all those who contributed to the bill. The Health and Sport Committee, under the able convenership of Christine Grahame, ploughed through the evidence, and I believe that we gave everyone a fair hearing, whether we agreed or disagreed with them. When I lodged my amendments to delete part 2 at stage 2, the committee had an excellent debate, as the cabinet secretary said, with contributions from members from all parties including our two doctors in residence. I thank my fellow committee members for the measured and considered way in which they debated the provision of general practitioner services. I regret that, due to time constraints, this afternoon's debate was not quite as wide ranging.

I think that this Government and indeed future Governments will regret the monopoly provision of GP services in Scotland. The Health and Sport Committee is still in the early stages of its inquiry into out-of-hours health care, but there is no doubt that as we progress more concerns about access to GPs are coming to light. The responsibility for out-of-hours GPs moved to health boards in 2004, but it is already clear that, as Richard Simpson pointed out and as Helen Eadie mentioned with reference to Kinloch Rannoch, individuals simply do not know what to expect from out-of-hours provision.

I say this constructively but I find it unfortunate that the Scottish Government's approach to the bill focused almost entirely on the banning of visual displays. The assumption was that anyone who questioned the evidence base for the policy must be in favour of smoking. Nothing could be further from the truth; I have seen members of my family and my in-laws die as a direct result of smoking.

However, I want to vote for measures that are known to be successful and which have an evidence base to prove it. I hope that the approach to the Alcohol etc (Scotland) Bill does not focus entirely on minimum pricing—

The Deputy Presiding Officer: I ask the member to stick to the bill in hand. Time is limited.

Mary Scanlon: I am just finishing. The fact is that minimum pricing is just one of many measures in the Alcohol etc (Scotland) Bill.

Although we do not support the bill itself, we support the measures on better enforcement, a register of retailers and proxy purchasing. I thank the Scottish Grocers Federation and the Scottish Retail Consortium for suggesting the law on proxy purchasing, which is likely to have the greatest effect on attempts by young smokers to access cigarettes.

16:32

Ross Finnie (West of Scotland) (LD): Although some of the amendments that the Liberal Democrats were happy to support proved to be unsuccessful this afternoon, we will nevertheless support the bill at decision time at 5 o'clock.

The whole process has, I think, been constructive. The bill that emerged from stage 2 was better and a number of measures were greatly improved as a result of evidence that was taken, suggestions that were made and the constructive dialogue among the committee and with ministers. As a result, the bill is more robust.

I agree with Mary Scanlon that control over tobacco displays is not the only issue in the bill. No one is suggesting that there is a single solution to controlling or reducing the amount of tobacco in use. However, I am deeply concerned that attempts to dissuade younger people from resorting to tobacco are not working as well as they might be. In that respect, the measures affecting the under-18 age group are much to be welcomed. Even more important steps have been the extension of the bill at stage 2 to cover proxy purchasing and the fact that, in enforcing the law, trading standards officers have been put on a *pari passu* basis with the police.

All members expressed different views about vending machines. The Liberal Democrats came to the view that no matter how they were constructed, they were not foolproof. However, we have made it clear that, notwithstanding the fact that the measures relating to these machines have to be introduced, we need to be helpful in doing so, and I am grateful for the minister's response on the matter. Other enforcement aspects such as the introduction of a register of retailers, fixed-penalty notices and banning orders are all very

welcome and will bear down on the illicit tobacco trade.

With regard to part 2, I say very gently to Mary Scanlon that, on the point that there have been no breaches of the Primary Medical Services (Scotland) Act 2004, I, like the member, am entitled to look at evidence from other parts of Europe. I do that, and I have also looked, for example, at England and have not been impressed by the extension of private practice there. So yes, the Liberal Democrats have reached a different view now from the one that we took in 2004. We accept that that has not happened here in Scotland—thank goodness. The 2004 act could have remained on the statute book unamended, but it will be amended if the vote goes the right way at 5 o'clock.

We welcome the changes. The bill is not perfect, and Richard Simpson was right to say that big changes are taking place in medical practice. The move towards a salaried profession is interesting because it would get rid of the independent contractor, to which Ian McKee is quite opposed.

The Deputy Presiding Officer: We have one or two other bits of business to attend to after we finish the debate, so I intend to limit everyone who speaks from now on, including closing speakers, to three minutes.

16:35

Ian McKee (Lothians) (SNP): The bill seeks to protect young people from exposure to pressure from cigarette companies and retailers to take up smoking. From research and common sense, we know that huge point-of-sale displays of tobacco products have an advertising effect. We know that there is pressure on retailers to sell cigarettes to under-18s, and that vending machines, which are often out of sight, offer another outlet for underage purchases. I support the measures that are before us, which will protect the vulnerable while allowing adults the freedom to purchase what is still a legal product.

I turn to part 2, which deals with primary medical services. The measures are needed because the Scottish health service is developing in a different way and with a different philosophy to its English counterpart. Here, we remain true to the original ideals of the national health service as espoused by Aneurin Bevan and others, as a mutual, publicly owned service and not simply as another consumer product. I pay tribute to those early leaders of the Labour Party, and the Liberal Lord Beveridge before them, who had the vision and drive to see their project to fruition. To allow large commercial companies to take over primary care services and run them for shareholder profit runs totally counter to that philosophy, which is, I

believe, shared by the majority of the Scottish people; it risks fragmenting the service.

Although it is true that some commercial companies can point to statistics that show that their process measures, such as the number of patients that are seen in a day, demonstrate a measure of efficiency, primary care is more than those dry facts; at its best, it should also demonstrate continuity of care and a stake in the community in which it operates. When practices fall short of those ideals, the problem should be tackled individually within the health service, not by handing over primary care to a faraway commercial company.

16:37

Helen Eadie (Dunfermline East) (Lab): I congratulate all concerned on passing the legislation. As we hear in many social settings, I think that we should all give ourselves a clap. I say that particularly to the officials of the Parliament and the Government in recognition of their hard work, knowledge, skill and abilities, all of which serve Scotland well. I thank them.

The debates that were generated inside and outwith the Parliament on some of the more controversial aspects of the bill resulted in robust dialogue and ensured careful consideration of the issues, and the Parliament responded well. I thank the Cabinet Secretary for Health and Wellbeing and the Minister for Health and Sport for reassuring me that they have the political will to enable the mutual, co-operative and social enterprise movement across Scotland to develop a community co-op model, even if it is not expressed in the bill. Significant progress has been made on that element of the bill, and I am most grateful for everyone's efforts. Richard Simpson, I and other members have constantly tried to promote that movement, even at stages 1 and 2, and I say to Ross Finnie that it was no fault of ours that we did not do more scrutiny. Everyone on the committee is responsible for that.

I will not comment more widely on part 1, because others have said what I would like to say and, in view of the shortage of time, there is no point in my saying much more. However, when I was a child, my two brothers and mum and dad all smoked heavily, so I know about the impact that smoke has on health; I suffered constantly from bronchial problems and that had a consequent serious impact on my health. If we have made life better for our children and grandchildren, we have indeed made a difference for our respective constituents.

16:39

Jim Tolson (Dunfermline West) (LD): Smoking serves no useful purpose. It is an unpleasant habit and it is disliked and cursed by those who are addicted to it as well as by those who have never tried it. Smoking has been inflicted on generations of people throughout the world. Tobacco is more addictive than some class A drugs.

I will outline why I have come to such a strong view. In my family, both my parents smoked for most of their lives and for most of their lives they had health problems and they passed away all too early. Some of my siblings have also smoked for some of their lives, although they seem to be living a longer life than our parents did. Although it was more than 30 years ago, I distinctly remember a lesson that I had as a young man at my school, Queen Anne high school in Dunfermline. I was struck by a series of slides in a health education lecture that showed a healthy and an unhealthy lung. The healthy lung was big, pink and well formed, whereas the unhealthy one was small, shrivelled, black and tar-like. That stark picture remains strong in my memory all these years later. I believe that that image in my mind played a strong part in the fact that I never gave in to peer pressure or any other pressure on smoking.

I was glad when, in the previous session, the Parliament took the bold decision to ban smoking in public places. I hope that we will approve the bill and take the bold step of further restricting smoking, particularly among our young, and sometimes impressionable, constituents. However, we must balance protection with practicality. The provision about which I have been most concerned is that relating to vending machines. Careful consideration should be given to the freedom to access cigarettes and the possible misuse of that freedom. I have been concerned for a long time about the fact that vending machines in pubs and clubs are often in a hallway.

Last week in the Parliament, I received assurances from manufacturers that the remote control machines would be in sight of the bar staff at all times and that the customer would have only a limited time to make their purchase, otherwise the vending machine would be locked off. Those assurances, and the use of a tried and tested technology, seemed suitable on the surface and were, no doubt, at the heart of Rhoda Grant's amendment 1. However, the machines do not meet the practicality test that I mentioned. I concede that, in a relatively quiet pub, the remote operation would mostly work successfully, but licensees do not aim to operate quiet pubs; they aim to operate busy and profitable businesses and it is in busy licensed premises that the machines would most frequently be used and abused.

For personal and political reasons, I welcome the bill. People on both sides of the argument have genuine concerns and genuine attempts have been made to overcome some of those concerns. However, I still think back to the slides of the healthy lungs and the tar-covered ones that I saw in high school and I think that, no matter how my life ends, I do not want it to end like that.

16:43

Michael Matheson (Falkirk West) (SNP): Tobacco remains a product that causes great damage in our society. We all recognise that there is no single action that we can take to make our society tobacco free and that there are no quick answers. I believe that one key measure in tackling the problem of smoking in our society is to change our cultural attitudes and the place that tobacco has in our society. It is fair to say that the legislation to ban smoking in public places was one of the most significant steps that the Parliament has taken in that process; the measures in this bill continue it.

The tobacco industry has long argued that tobacco displays in shops are not a form of advertising but purely a display for its products. However, given the industry's track record, it is difficult to know when we should believe it. The evidence shows clearly that, since a ban on advertising cigarettes was introduced, the number of brand variants in tobacco displays has increased dramatically. That is all about getting more shelf space and advertising the goods a little more in shops.

As we continue to try to change the place that smoking and tobacco have in our society and to change attitudes, it is time that we ended the highly visible promotional displays that exist in such prominent positions in our shops. That would signify our intent to make those changes.

I accept that there is limited evidence about the potential benefits from a ban on such displays. That is largely because such bans have been in place for only a short time in other jurisdictions. However, I prefer to take the precautionary approach and ban displays now to prevent more people from taking up smoking and damaging their health in the future.

It is important, too, that we ensure in the bill that tobacco is treated in the same way as other high-risk products such as solvents, alcohol and fireworks, and that we end the purchase of cigarettes from vending machines, whether operated remotely or not. Tobacco should not be exempt from the way in which we deal with other high-risk products, and it is welcome that we are bringing our treatment of tobacco into line.

Given that tobacco causes significant damage to individuals and families, and to our society as a whole, we must do everything possible to tackle the issue. I believe that the bill is a further important step forward in ensuring that we do exactly that.

The Deputy Presiding Officer: We now move to wind-up speeches of three minutes each.

16:46

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): As the convener of the Subordinate Legislation Committee, I have had an opportunity to see, as have my committee colleagues, the sincere work that has been done on the bill by the Scottish Government and many others, to whom I will refer later.

I will touch on two issues. First, I welcome the bill's tackling of the proxy purchase problem. We all know that that practice has gone on for far too long, and I hope that the bill will nip it in the bud. Without straying into the territory that Mary Scanlon was warned off, I hope that legislation will stop that practice for alcohol and other substances that are misused. That is crucial, and we will learn much from seeing how the bill's proxy purchase provisions are applied.

Secondly, on the vending machine issue, I pay tribute to Michael Matheson's earlier contribution, because one in 10 young people get tobacco via a vending machine by one method or another. As Ross Finnie said, our party associates itself very much with what Richard Simpson said about the jobs affected by the ban on vending machines. We do not know the numbers involved, but we are sensitive to the issue and to the need to find alternative employment for people.

The whole debate today has been underpinned by genuineness of intent. Helen Eadie's contribution was representative in that regard. Like her, I pay tribute to the work that has been done on the bill by the Scottish Government and the Health and Sport Committee, of which I am not a member. Like others, I pay tribute to all the people and organisations who have taken the time and trouble to contribute to the debate.

Unlike my colleague Jim Tolson, I have never in my life been able to say no. Unfortunately, I did not say no to a cigarette at a young age. It will be six years next June since I packed in smoking. Goodness knows what damage I did to my health over the years, but I am glad that I gave it up. It was one hell of a struggle to do so.

My father was a heavy smoker all his days and he died of lung cancer at an early age—I miss him yet. For that reason, if for no other, I support the bill to the hilt. It is a commendable piece of

legislation, which I most sincerely commend to Parliament.

16:48

Jackson Carlaw (West of Scotland) (Con): As a great leader once remarked in a Parliament elsewhere, an argument that an unconvinced minority should vote with the majority is an argument for a flock of sheep. Nevertheless, in respect of part 1, we agree with the minister's analysis in her speech that opened the debate. We agree, too, with everything that Richard Simpson said in his speech. Our problem is not with being part of the consensus in the chamber that youth smoking is a serious social problem and that smoking is a serious public health issue in Scotland that causes far too many people to die prematurely; our problem is with the remedy in the bill.

The enforcement measures are welcome, but I will say something that has not been said much in the debate so far: there is now a responsibility to ensure that the new, rigorous enforcement measures that will be in place will be enforced. One criticism that has been made by those who have made representations to us on smoking and other public health issues is that existing policies and legislation are often not enforced or not enforced rigorously enough. There is no point in our passing new enforcement actions only to find out in 12 or 24 months' time, when we start to ask the questions of ministers, that prosecutions under those measures are not taking place.

Our problem is that we believe that the display ban is potentially prejudicial and ineffectual and that it will affect many small businesses. I foresee queues of people in small retail businesses who are no longer able to see the display but who have to stand by and listen to the discussion about tobacco between the retailer and the person at the front of the queue—to whom Ross Finnie referred in an earlier debate when he said that he watched the queue presenting itself to the display at the front. I do not see how in practical terms that would discourage young people from understanding about the product and the potential to purchase it.

On part 2 of the bill, our problem lies with the fact that we cannot foresee future demographics. We have been astonished by Labour's retreat on this piece of legislation, and one can only speculate on what future retreats that portends after 6 May. At this stage, we cannot anticipate the future needs of a developing health service. For those reasons, we cannot see the wisdom in closing the door on solutions that might deal with future situations that we cannot foresee.

For those reasons, we have regrettably come to the view that we cannot support the bill.

16:51

Jackie Baillie (Dumbarton) (Lab): It gives me great pleasure to contribute to the debate on behalf of the Labour Party. I join others in paying tribute to the clerks, the bill team, the Health and Sport Committee, which scrutinised every aspect of the bill, and the Minister for Public Health and Sport and the Cabinet Secretary for Health and Wellbeing for introducing the bill, which clearly and rightly commands substantial support in the chamber—albeit with the exception of the Tories.

Labour has a proud record in government of tackling the problem of tobacco. In 2005, the Parliament passed the Smoking, Health and Social Care (Scotland) Act 2005, which introduced the historic ban on smoking in public places. There is no doubt that that has brought benefits to smokers who have succeeded in giving up and to customers and employees in restaurants, bars and elsewhere who are no longer subjected to other people's smoke.

The year 2005 also saw the passing of the Licensing (Scotland) Act 2005 with, for the first time in legislation, a clear public health objective. We have supported raising the legal age for smoking from 16 to 18, which has since been implemented.

I have no doubt that the United Kingdom Government's ban on tobacco advertising, which has existed for a number of years, is helpful, but we are persuaded that further restrictions on point-of-sale displays of tobacco products are much needed.

The decision about whether to ban vending machines was always going to be finely balanced. Although we have come down on the side of public health, we recognise the concerns of the vending machine operators, and I am grateful for the minister's commitment to consider what practical support can continue to be provided.

Although I am deeply disappointed that Richard Simpson's amendments were not agreed to, I believe that the bill will move things forward. I urge the Government to be vigilant, given the experience in Ireland of the creative ways in which the industry has tried to circumvent display bans.

On part 2, I do not share the British Medical Association's disappointment that the GMS contract is now extended to other health professionals, such as nurses. The Royal College of Nursing argued for it in detail at the committee, and we believe that it is right that, as nurses become increasingly skilled and responsible in areas of primary care, we should enable them to

hold contracts in the future. We are grateful to the Government for taking that point on board.

I return to part 1 in closing. The scale of the problem that is caused by smoking has been well documented, and I do not believe that it is contested by anybody in this chamber. We therefore have a responsibility to try to ensure that not just this generation but future generations do not become addicted to tobacco. The bill will help in that process, and I commend it to the chamber.

The Deputy Presiding Officer: I call the cabinet secretary to wind up the debate until 2 minutes to 5 please.

16:54

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): Okay. I will perhaps slow down a bit.

I thank all members who have contributed to the bill both for making the process constructive and for contributing to a good debate on a range of issues this afternoon.

I will deal with part 1 first. There is no doubt whatsoever that, if the bill is passed in just a few minutes' time, it will represent a milestone for tobacco control in Scotland. Great progress has been made in recent years, but we should never forget that 15,000 young people still start to smoke every year. A young person who starts to smoke at 15 is three times more likely to die of cancer than someone who starts to smoke at a later age.

The Parliament—bravely and rightly—showed leadership when we passed the ban on smoking in public places. The measures that I hope that we will pass today will build on the good work that the Parliament has done on tobacco control. The Government believes that, when weighed against the huge health and economic costs that are associated with smoking, the bill is a proportionate and appropriate response to the scale of the problem that we face.

Today, we took a different view from Richard Simpson on his amendments about displays, but I hope that members who supported his amendments appreciate that we disagreed about method and process and not about the objective, to which we are all signed up. I hope that supporters of those amendments took heart from the minister's assurances about our determination to put in place comprehensive and robust provisions and to ensure that the tobacco industry cannot circumvent them.

As members have said, there is no doubt that the bill will take us further—in my view, a long way further—towards the vision that we all share of a non-smoking Scotland. That can only be good for our country's public health.

As for part 2, the Government has set out its vision of a mutual NHS. Primary medical services are an integral and strategically important part of the NHS. Patients look to their GPs to meet the vast majority—and often all—of their medical needs. The measures in part 2 will sustain and strengthen the effective model of primary medical services that already operates throughout the NHS. That model makes me proud. However, we listened to the view that flexibility was required precisely because of the uncertainties about future demographics to which Jackson Carlaw referred, which is why we agreed to some stage 2 amendments. We are right to be proud of the NHS in Scotland. The provisions that I hope that we will pass today will strengthen that model.

I add my thanks to the Finance Committee, the Subordinate Legislation Committee and especially the Health and Sport Committee, which did a tremendous job. I also place on record my sincere thanks to Government officials and the bill team, who have worked incredibly hard. Shona Robison and I are very grateful to them.

I hope that members will vote to pass the bill.

Business Motions

16:57

The Presiding Officer (Alex Fergusson): We have many business motions and other processes to go through, and we will do that as rapidly as possible.

The next item of business is consideration of business motion S3M-5609, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a revised business programme for Thursday 28 January.

Motion moved,

That the Parliament agrees the following revision to the programme of business for Thursday 28 January 2010—

after

2.55 pm

Scottish Government Debate: Skills Strategy

insert

followed by

Legislative Consent Motion: Equality Bill – UK Legislation

followed by

Legislative Consent Motion: Constitutional Reform and Governance Bill – UK Legislation

followed by

Legislative Consent Motion: Energy Bill – UK Legislation—[Bruce Crawford.]

Motion agreed to.

The Presiding Officer: The next item is business motion S3M-5610, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a business programme. Anyone who wishes to speak against the motion should press their request-to-speak button.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 3 February 2010

2.30 pm

Time for Reflection

followed by

Parliamentary Bureau Motions

followed by

Stage 3 Proceedings: Budget (Scotland) (No.4) Bill

followed by

Business Motion

followed by

Parliamentary Bureau Motions

5.00 pm

Decision Time

followed by

Members' Business

Thursday 4 February 2010

9.15 am

Parliamentary Bureau Motions

followed by

Stage 3 Proceedings: Marine (Scotland) Bill

11.40 am

General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time
Europe, External Affairs and Culture;
Education and Lifelong Learning

2.55 pm Continuation of Stage 3
Proceedings: Marine (Scotland)
Bill

followed by Legislative Consent Motion: Flood
and Water Management Bill – UK
Legislation

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 10 February 2010

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by SPCB Question Time

2.20 pm Scottish Government Business

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 11 February 2010

9.15 am Parliamentary Bureau Motions

followed by Stage 3 Proceedings: Home Owner
and Debtor Protection (Scotland) Bill

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time
Health and Wellbeing

2.55 pm Scottish Government Business

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business—[Bruce
Crawford.]

Motion agreed to.

The Presiding Officer: The next item is business motion S3M-5611, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a stage 1 timetable for the Housing (Scotland) Bill. Anyone who wishes to speak against the motion should please press their request-to-speak button.

Motion moved,

That the Parliament agrees that consideration of the Housing (Scotland) Bill at Stage 1 be completed by 25 June 2010.—[Bruce Crawford.]

Motion agreed to.

The Presiding Officer: The next item is business motion S3M-5612, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau,

setting out a stage 2 timetable for the Criminal Justice and Licensing (Scotland) Bill. Anyone who wishes to speak against the motion knows what to do by now.

Motion moved,

That the Parliament agrees that consideration of the Criminal Justice and Licensing (Scotland) Bill at Stage 2 be completed by 26 March 2010.—[Bruce Crawford.]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S3M-5613, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a stage 2 timetable for the Interpretation and Legislative Reform (Scotland) Bill.

Motion moved,

That the Parliament agrees that consideration of the Interpretation and Legislative Reform (Scotland) Bill at Stage 2 be completed by 26 March 2010.—[Bruce Crawford.]

Motion agreed to.

Parliamentary Bureau Motions

16:59

The Presiding Officer (Alex Fergusson): The next item of business is consideration of four Parliamentary Bureau motions.

I ask Bruce Crawford to move motion S3M-5614, on approval of a Scottish statutory instrument.

Motion moved,

That the Parliament agrees that the draft Crofting (Designation of Areas) (Scotland) Order 2010 be approved.—[*Bruce Crawford.*]

The Presiding Officer: The question on the motion will be put at decision time.

I ask Bruce Crawford to move motions S3M-5615 and S3M-5616, on codes of practice for the welfare of dogs and cats.

Motions moved,

That the Parliament agrees that the Scottish Government Code of Practice for the Welfare of Dogs (SG 2009/279) be approved.

That the Parliament agrees that the Scottish Government Code of Practice for the Welfare of Cats (SG 2009/280) be approved.—[*Bruce Crawford.*]

The Presiding Officer: The question on the motions will be put at decision time.

Finally, I ask Bruce Crawford to move motion S3M-5617, on the establishment of a Forth crossing bill committee.

The Minister for Parliamentary Business (Bruce Crawford): I am fatigued, Presiding Officer, but I move,

That the Parliament agrees to establish a committee of the Parliament as follows—

Name of Committee: Forth Crossing Bill Committee;

Remit: To consider and report to the Parliament on the Forth Crossing Bill;

Duration: Until the Bill has received Royal Assent, falls or is withdrawn;

Convenership: The Convener will be a member of the Scottish Conservative and Unionist Party and the Deputy Convener will be a member of the Scottish Liberal Democrat Party;

Membership: Jackson Carlaw, Joe FitzPatrick, Hugh O'Donnell, David Stewart.

The Presiding Officer: The question on the motion will be put at decision time, to which we now come.

Decision Time

17:00

The Presiding Officer (Alex Fergusson): There are four questions to be put as a result of today's business.

The first question is, that motion S3M-5560, in the name of Nicola Sturgeon, on the Tobacco and Primary Medical Services (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

Robert Brown (Glasgow) (LD): On a point of order, Presiding Officer—

The Presiding Officer: I cannot take a point of order during voting, Mr Brown.

For

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 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, Keith (Ochil) (SNP)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)

Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 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)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 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)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)

Goldie, Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)

The result of the division is: For 108, Against 15, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Tobacco and Primary Medical Services (Scotland) Bill be passed.

Robert Brown: On a point of order, Presiding Officer. I would like you to look into a problem with my voting console. When I had voted, all three lights—the lights that indicate yes, no and abstain—were flashing.

The Presiding Officer: That covers all the bases, Mr Brown. Your point is on the record. We will have the console looked at.

The second question is, that motion S3M-5614, in the name of Bruce Crawford, on approval of a Scottish statutory instrument, be agreed to.

Motion agreed to,

That the Parliament agrees that the draft Crofting (Designation of Areas) (Scotland) Order 2010 be approved.

The Presiding Officer: If no member objects, I propose to ask a single question on motions S3M-5615 and S3M-5616.

The question is, that motions S3M-5615 and S3M-5616, in the name of Bruce Crawford, on the approval of codes of practice, be agreed to.

Motions agreed to,

That the Parliament agrees that the Scottish Government Code of Practice for the Welfare of Dogs (SG 2009/279) be approved.

That the Parliament agrees that the Scottish Government Code of Practice for the Welfare of Cats (SG 2009/280) be approved.

The Presiding Officer: The fourth question is, that motion S3M-5617, in the name of Bruce Crawford, on the establishment of a committee, be agreed to.

Motion agreed to,

That the Parliament agrees to establish a committee of the Parliament as follows—

Name of Committee: Forth Crossing Bill Committee;

Remit: To consider and report to the Parliament on the Forth Crossing Bill;

Duration: Until the Bill has received Royal Assent, falls or is withdrawn;

Convenership: The Convener will be a member of the Scottish Conservative and Unionist Party and the Deputy

Convener will be a member of the Scottish Liberal Democrat Party;

Membership: Jackson Carlaw, Joe FitzPatrick, Hugh O'Donnell, David Stewart.

Post Offices

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S3M-5443, in the name of Christine Grahame, on post office development and diversification. The debate will be concluded without any question being put.

Motion debated,

That the Parliament, recognising the key role of Scotland's post office network in both urban and rural communities such as the Scottish Borders, commends the Post Office Diversification Fund, which helps post offices improve and diversify during the recession and was introduced by the Welsh Assembly Government, and considers that similar support should be provided to the post office network in Scotland.

17:04

Christine Grahame (South of Scotland) (SNP): I thank the members who signed the motion and those who are taking part in the debate. I welcome members of the National Federation of SubPostmasters who are in the gallery. I welcome the sub-postmasters from Jedburgh, Selkirk, Milnathort and Auchterarder in particular, but also those whom I have yet to meet. Some weeks ago, along with the National Federation of SubPostmasters and colleagues, I hosted a presentation on "Six Steps to a Sustainable Post Office Network", which led to this debate.

Before addressing the specific matter of the diversification fund, by way of background I refer the chamber to my consultation on local post offices across the Scottish Borders, which was carried out at a time when the Department of Trade and Industry was consulting on post office reduction. In February 2007, 40,000 residents were consulted, with more than 13,000 responses. That is a 35 per cent response rate, which is somewhat higher than the turnout at some elections. Ninety-eight per cent of respondents considered the local post office to be an essential part of the community.

I list, in no particular order, the key functions that were identified. The first was social inclusion and convenience. Those who did not have bank accounts had only the post office as a source of cash, bill paying, benefits access and advice and so on. It was important to the local economy; many small businesses, especially in the days of internet business, transact through the local post office. It was important to community survival; the survival of many other local shops and businesses was dependent on local people carrying out transactions at the local post office and spending their money in the local shops nearby. It was important to individual wellbeing. Local post office

staff often go beyond the job and help with form filling; they know their customers, for whom they may be the only contact that an individual makes during the day or, indeed, the week. As many of us will recognise, the local post office is also an important community information source—a sort of local Reuters, with both community and individual gossip, as well as an unofficial tourism, directions and information bureau.

I have taken the time to repeat the consultation's findings because they tie in directly with the proposals in the report to which I referred earlier, which covers not only UK responsibilities but the Scottish Parliament and local government. Most of the recommendations relate to the key, often unofficial functions to which I have referred, many of which are unpaid. I support discussions between the Scottish Government, the Convention of Scottish Local Authorities and agencies such as the Department for Work and Pensions, the credit unions and VisitScotland—the list is not exhaustive—with a view to producing a co-ordinated plan to support, develop and finance our sub-post office network to meet the demands that I have outlined.

With the demise and disgrace of the large banks, there is an opportunity to be grasped. As Consumer Focus Scotland states in its helpful briefing note:

"The Post office is a universal brand which consumers recognise, value and support".

We cannot say that about the banks and their billions bailout. In passing, I congratulate the Government on its small business rates relief scheme, which allows some businesses to save up to £3,100 a year. That is not to be sniffed at.

I commend the Welsh Assembly Government and its aptly though quite clumsily named post office diversification fund, which developed from the Welsh post office development fund. Between 2002 and 2004 the post office development fund gave capital grants totalling £4.1 million to 99 post offices in some of the most remote and deprived areas in Wales. The diversification fund opened in December 2008, with £1.5 million per year for three years in capital and revenue grants, and is open to post offices throughout Wales—coverage has been extended. The first round closed on 30 April 2009, with 120 applications for grants totalling just over £2 million. Sixty-three were successful, with a payout of just over £1 million. That enabled those small businesses at the hub of the community—whether rural, remote or urban—to improve facilities both economically and socially, to install computers and so on. I commend the Welsh Assembly Government for putting its money where its mouth is.

I recognise the realities of a budget in constrained financial circumstances that have been and will, in the coming week, continue to be well aired in the Parliament. However, we have the model of the town centre regeneration fund. That had substantial funding—£60 million—but it was seed-corn funding that, according to Government estimates, supported 640 jobs across Scotland. Grant applications were assessed, and the funding was allocated. The minister will be relieved to know that we are not asking for £60 million. However, on a population basis, with 3 million people in Wales and 5 million in Scotland, we could be talking single millions to provide capital and revenue grants. That might allow post offices to borrow money on top of that to develop their premises or buy information technology equipment, or to carry out a refurbishment. Essentially, and importantly, that would be done in tandem with providing funded additional local services, as I outlined earlier. This is a golden opportunity.

Unfortunately, I am not a minister—and probably never will be—and I have no formal part in the cross-party budget discussions and negotiations, but the Minister for Enterprise, Energy and Tourism can take this as my informal and very public bid from the back benches for the minister and the Cabinet Secretary for Finance and Sustainable Growth to examine the proposal in the context of the current debates, with whomsoever, on the budget. I consider this proposal to be very worth while and proportionate. It is a small investment that will be excellent for communities, for employment and for social wellbeing. As has been proved elsewhere, it is highly successful. It has been tested.

I look forward to hearing the minister's response. I hope that it is positive.

17:11

Cathy Peattie (Falkirk East) (Lab): I support Christine Grahame in the work that she has been doing on post offices. She is absolutely right about the Welsh fund. There are opportunities to develop such a fund in Scotland.

Post offices and sub-post offices are crucial to our communities. They provide support in the form of benefits and pensions. In many communities, they provide support for small businesses. In communities that do not have banks, people have the opportunity to use the post office instead.

I have heard various stories from sub-postmasters and others, including older people, who have said, for instance, that the only person who noticed that they had not been out all week was the sub-postmaster. I heard that a sub-postmaster had actually turned up at Mrs Smith's

house after a week, because she usually went into the post office every week. I do not know of any other service that does that, albeit that it can often be an informal service. The post office is an integral part of our communities, both urban and rural. We should consider how we can support our post offices in diversifying, and we should ensure that there is money for improving access to help people to use their post office.

The proposed post bank would provide another reason for folk to use their post office and would deal with the issue of communities not having access to a bank. It is all very well suggesting that people get benefits and so on through their bank, but if they do not have access to a bank—if there is no bank in their community, perhaps no bank for miles—the idea of a post bank could make some difference. That could support credit unions within the post office's radius, as credit unions also need access to banks.

I am pleased that the debate is taking place, and I hope that we can look forward to the possible development of a diversification fund similar to the one in Wales, which illustrates what we could do in Scotland. It does not involve a lot of money, but such a fund recognises the value of post offices in our communities and the importance of making them more sustainable. Post offices provide a service to the people we represent, and I am happy to support the motion.

17:13

John Lamont (Roxburgh and Berwickshire)
(Con): I, too, begin by congratulating Christine Grahame on securing this important debate. I apologise to you, Presiding Officer, and to other members, as I need to leave for another engagement after making this speech.

The post office network has experienced significant change over recent years, and I am pleased that we now have the opportunity to examine proposals that could help us to create a more sustainable network. I will concentrate on the key role that the post office network plays in rural communities such as those in the Scottish Borders and on what we can do to maintain a sustainable network for future generations.

I am especially pleased that the motion recognises that post offices are of particular importance in rural areas such as mine in the Borders. Although the figures for the usage of branches in urban areas might be higher than those for rural communities, post office branches in rural towns and villages are often the hub of the local community. That became increasingly apparent during the consultation on the network change programme in 2008. I was contacted by thousands of constituents who were concerned

about losing their post office branch. Hundreds of residents attended public meetings that were organised in the communities that were affected by the proposed closures. The representatives from the Post Office Ltd were left in no doubt as to the extent to which local residents value the service that they receive at their local post office branch.

Many people were frustrated that those closure proposals could have left them without local access to services such as benefits and pensions, road tax renewals and general postal services. However, there were also specific situations that were unique to individual communities that highlighted the value of having a local post office. For example, in one town, a large number of small businesses relied on a local and reliable postal service to send out mail orders to customers. In another village, it was clear that the proposals would lead not only to the closure of the post office but to the loss of the local shop, which had become the community hub such was the high regard in which the sub-postmistress was held. Across my constituency, there was a feeling that the proposed changes were another example of the decline in rural communities.

As is recognised in the recent report by the National Federation of SubPostmasters, the potential for diversification by using the post office network to deliver existing services—whether from the United Kingdom Government, the Scottish Government or local councils—is huge. Despite the recent closure of branches, the post office network's unrivalled reach over all parts of the country is a tremendous resource that should be used to its full potential. As the recession forces Governments and local authorities to reassess the way in which services are delivered, the post office network is in a prime position to help to deliver those services.

Like Christine Grahame, I want to highlight the experience in Wales, where for several years now a post office diversification fund has made available grants of up to £50,000 to branches in the most deprived or most isolated areas. Introducing a similar model in Scotland could encourage enterprise and help to create businesses that are more diverse and, therefore, more resilient to fluctuating trends in the economic cycle.

To conclude, I am pleased that we have had an opportunity to debate this important topic. I look forward to hearing the minister's response on how the network can be supported.

17:17

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I congratulate Christine Grahame on securing tonight's debate.

As all other members do, I consider our post office network to be a national jewel. Post offices are of enormous importance in my large and scattered constituency: indeed, I use their services nearly all the time. Not a week goes by when I do not ring one of the sub-post offices in my constituency to find out some detail that I need to know about somebody or some issue. Our post offices have a wealth of local knowledge. I commend any visitor to my constituency to take a look at the small post offices at Kylesku and Altnaharra. They are two of the most remote and tiny post offices, yet the two ladies who run them are crucial to their communities.

Part of tonight's debate is about what more we could do with our post offices. Mention has been made of the banks, but it is still not possible to use post office automated teller machines to withdraw money from the Royal Bank of Scotland. Given how much public money the Royal Bank went off with, that is too bad. It should have been a condition of the bail-out that the Royal Bank was required to use the post office network. I hope that Governments—of whatever colour they might happen to be—will adopt that kind of thinking in the future.

If people buy their tax disc online, they will wait four or five days to receive it, whereas they will get it right away if they buy it through the post office. The post office offers a much better service, so we should encourage that sort of use. To draw a parallel with a previous Labour Party debate on local newspapers, if everything goes online, we will be at risk of losing many crucial proper face-to-face services. People's ability to pay for their television licences was taken away from the post office network. If that was given back to post offices, what would that not do to help?

The motion suggests that we should copy the Welsh experience by providing grants for either capital or revenue costs to improve post offices by investing in them. One argument that we used successfully to beat off the proposal to shut Pulteneytown post office in Wick was about that post office's potential as Wick harbour was developed with a marina and other facilities. Luckily, that argument prevailed because we said, "Look what we could do in the future if we invest in the post office now." Therefore, I support very strongly that suggestion in the motion.

It has already been pointed out that post offices support shops, which is true. However, inevitably and sadly, as little shops close—a trend that we seem to have the greatest difficulty in averting,

especially in the most rural areas, such as my constituency—communities may often be left with only a post office. Just as primary schools are, post offices are often the hubs of their communities. Remove them and death will very quickly point its dark finger towards that community.

Given that we have an ageing population, as other members have said, the contribution that post offices make is crucial. Postmistresses have local knowledge; if the people who run the post office have not seen Mrs MacKenzie—who may live on a remote croft—for a week or two, they will ask whether she is all right and whether anyone has been to visit her. Members will remember that, some time ago, I talked about the gentleman in my constituency who lay dead for far too long before being discovered. That could have been picked up via the post office network.

The Scottish Government can help, although I grant that it is not easy, in these cash-strapped times, to find the amounts of money that we might be talking about. I acknowledge the minister's helpful attitude, which I experienced for myself when I asked a question of him some days ago. He gave me a positive answer and said that the Scottish Government would look at how it could boost the post office network for the future by directing services through it. At the end of that question time, he kindly gave me his mind map. Alas and alack, I do not have the same intellectual firepower and am not of the same intellectual calibre as our minister, so I did not understand it.

Christine Grahame: Frame it.

Jamie Stone: I will do.

I look forward to listening to the minister's response.

17:21

Jamie Hepburn (Central Scotland) (SNP): As other members have done, I congratulate Christine Grahame on securing an important debate. It is important to reflect on the fact that it does not take place in a vacuum. We have had other debates about the future of Royal Mail and the Post Office. I secured a members' business debate on the UK Government's plans to part-privatise the Post Office, which was held on 7 May last year. About a year ago, on 9 January, we had a debate on the UK Government's rationalisation programme for the Post Office and, in particular, how it affected the south of Scotland. That forms part of the context for this evening's debate.

That context is about a sustained assault on the Post Office and Royal Mail. Over the past few years, Her Majesty's Government in London has dithered over awarding the contract to sustain the

Post Office card account to the Post Office. The ability of post offices to make benefits payments has been removed and, as Jamie Stone said, people can no longer pay for their television licences at the post office. There has been a stripping away of services, which has undermined local post offices.

In addition, we have had the UK Government's unnecessary part-privatisation proposals for the Royal Mail, which have thankfully been delayed. They should be shelved permanently. I hope that they will be, whatever the political hue of the Westminster Government. Christine Grahame and John Lamont mentioned the rationalisation programme that saw the closure of 2,000 post office branches across the UK, which had a disproportionate effect on Scotland.

I want to take the local angle. Like Christine Grahame, I consulted local people about some proposed closures in the area that I represent. The proposals related to the post offices in Kildrum, Banton, Queenzieburn and Plains, and to the Grangepans post office in Bo'ness. The response that I received to those consultations was overwhelming. In each case, at least 99 per cent of the people who responded said that they wanted their post office to remain open. That is understandable because, as Jamie Stone rightly said, the post office is often the hub of the community that it serves.

I wanted to go back to the people whom I had consulted to find out how their communities had been affected by what happened, so in October last year I wrote to all the people who responded to my original consultation. Of those who replied, 95.6 per cent thought that the closure of their local post office branch had had a negative impact on the community and 82.4 per cent believed that the quality of postal service that they received had worsened in the past year.

Tonight's debate is highly relevant. We need to consider a diversification fund such as Christine Grahame spoke of, but although I welcome her suggestion and support it in principle, I am somewhat reluctant to throw it back at the Scottish Government, given that such matters are still the responsibility of the Westminster Government. As a Scottish National Party member, I believe that our Government should have the relevant responsibility, but given that the Welsh Assembly Government has introduced such a fund, there is merit in at least considering the proposal.

Consumer Focus Scotland supports the idea. It recognises that the public sector faces significant pressures because of the economic downturn and suggests that consideration of the proposal should take place in that context. That is a reasonable approach, and it is one that I urge the minister to take. We want the post office network in Scotland

to have a bright future, and a diversification fund such as the one that exists in Wales may have a role to play in that. I very much look forward to hearing what the minister has to say in that regard.

17:25

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I, too, congratulate Christine Grahame on securing this debate. In particular, I pay tribute to her for focusing on issues that are the Scottish Parliament's responsibility and for making constructive suggestions to the minister rather than trying to use the issue as a political football. I do not intend to go down that road, either.

I want to talk about issues that relate to my constituency. I cannot speak about the Borders, which Christine Grahame and other members know far better than I do. I represent a constituency that includes urban areas and rural communities. There are, in those urban areas, particularly disadvantaged communities that rely on the types of service that post offices can provide. In my local area, I worked with my Westminster colleagues to campaign on issues when the post office closure programme and changes were put in place, and we managed to get a different approach in some, although not all, instances.

Communities have expressed concerns that, although post offices were closed in some areas and their services were moved into local shops where it was believed that doing so would be viable, we are increasingly seeing sub-post offices that do not appear to be viable on their own and are looking for opportunities in other local retail establishments. Only this week, I heard about that happening in the Netherthird area of Cumnock. The sub-post office there was not sustainable and an interim arrangement was put in place. A local shopkeeper will now step in, and a new scheme will operate.

The crucial question in Christine Grahame's speech was to ask what the Scottish Government can do through a fund such as the post office diversification fund to ensure that the wider business around post offices will be sustainable, and to create new business opportunities. I am interested in what the minister will say about that. How might small local businesses or people who would be prepared to take on a sub-post office be supported in setting up an extended business or supporting existing businesses?

Like my colleague Cathy Peattie and many others—the Communication Workers Union, for example—I support the post bank initiative. From the consumer perspective, when people go into their post office, they want a one-stop-shop

approach. If they need to withdraw money from an account, pay bills or pay money into their credit union savings, they ought to be able to do so in a one-stop shop.

As many people have said, the crucial point about post offices is that there is face-to-face contact in them. The contact in them is not impersonal, as it is on the internet or with call centres. That is important for many people. It is important not just for those who need daily contact so that someone will ensure that they are still well and out and about, but for people who can be bemused by instructions such as "Press button 1 if you want to do that" or do not have access to the internet and need assistance. Such things are important.

I welcome the debate and look forward to hearing a positive response from the minister. I am sure that we will.

17:29

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Cathy Jamieson was right to say that the debate is about devolved matters. In that regard, I thank Christine Grahame for lodging the motion. The issue of non-postal services' support for the post office network is absolutely within the remit of the Scottish Parliament and that of the Scottish Government's budget.

Members across the chamber have stressed the importance of the post office network in local communities, and I will say nothing that will detract from that. As a local MSP, I am acutely aware of the need for a vital and sustainable post office network. The sustainability argument is critical to this debate.

Parliament's job is not just to analyse the problem, but to address it through seeking Government action. We know how important post office services are from taking part in the debate that Christine Grahame hosted with the National Federation of SubPostmasters. Margaret Curran also took part in that debate and made an excellent contribution to our considerations. Furthermore, the priorities that members from rural constituencies have outlined, such as the remoteness of services and their relevance to older and vulnerable people, are also priorities in our deprived urban areas. That was recognised by the previous Government in 2003 to 2005, through its fund for the development of post offices in deprived areas. That fund of more than £1.8 million was invested in 48 post offices, with grants of up to £50,000. Indeed, a fund considered by the previous Welsh Assembly Government has been continued by the current Welsh Assembly Administration—the post office diversification fund. By learning from best practice under a previous

Government and looking to what the Welsh Assembly Government has done, we ask the Scottish Government to focus its attention on the support that it can provide.

The Liberal Democrats wrote to John Swinney, the Cabinet Secretary for Finance and Sustainable Growth, on 24 November, at the start of the budget discussions, asking the Scottish Government to amend its plans and include a post office diversification scheme in its budget. Discussions on that are on-going. Indeed, 10 days ago, when I met John Swinney again, that was the topic of conversation, and on Tuesday morning the Liberal Democrats reiterated our request that the post office diversification scheme be considered as part of the budget. I do not expect the Minister for Enterprise, Energy and Tourism to give assurances today, but I hope that he will make encouraging remarks to the effect that the Liberal Democrat proposals will be not only looked on favourably, but adopted.

Our proposal—to reduce the pay bill for those in the public sector in Scotland who receive the highest wages in order to support real action on the ground to keep post offices open in our rural and deprived urban areas—is very much focused on the principle of asking those with the broadest shoulders to contribute in a fixed budget. That would free up resource to ensure that the elderly and the other key users of the post office network in Scotland, of whom members have already spoken, can continue to have a sustainable network. I am sure that, if the Scottish Government responds favourably to our calls, we will have the opportunity that existed under the previous Administration and which exists under the current Welsh Assembly Administration to support the sustainability of our post office network, which we all hold in high regard.

17:33

Aileen Campbell (South of Scotland) (SNP): I join other members in congratulating Christine Grahame on securing the debate on a topic that is of increasing importance to people throughout the country, but particularly, as the motion states, those in the Scottish Borders and the wider South of Scotland region that I represent.

There are 1,464 post offices in towns and villages throughout Scotland, including our branch in the Holyrood village, which does a sterling job not just for MSPs, but for all users of the Parliament building. The network offers an unrivalled geographical reach across the country that still exists despite post offices being hit by the network change programme—or, as it is known to many of our constituents, the closure programme.

The South of Scotland region, which I both represent and live in, experienced some of the cuts. They were devastating blows to the communities that the post offices served. Many people relied on their nearest post office to get their pensions or child benefits, and many small businesses relied on them, too. In addition, people valued their post office as a venue in which to meet friends and neighbours for a blether. It was no surprise that, when I conducted a survey among constituents who had been affected by the closure of post office branches in Lesmahagow, Lanark, New Lanark, Larkhall, Irvine, Stevenston and Kilwinning, an average of more than 98 per cent of respondents said that they disagreed with the proposals.

The post office is important because it has a social value that many groups, businesses and organisations can only dream of. It is a widely recognised brand that, in today's credit crunch times, is trusted and respected, as members have said. It is also a place where customers are served by someone face to face. I agree with Cathy Jamieson that the post office is as far removed as possible from the emotionlessness of direct debits, distant call centres and annoying automated responses that tell people, "Press 1 for advice or 2 for assistance."

To tell the truth, the only really annoying thing about post offices is their extra-long queues, but not everything is perfect and the fact that the services are in such high demand suggests, in itself, that post offices are doing something right.

Of course, there is a serious and commercial side to the post office. According to the National Federation of SubPostmasters, for every £1 transacted in the UK, 14p is handled through the post office network. The Federation of Small Businesses said that small businesses are heavily reliant on post offices, with nearly nine in 10 small businesspeople visiting a post office to buy stamps and send mail and 25 per cent depositing cash, collecting change and using the banking service at the post office.

The importance of the post office network cannot be overstated, which is why we need to think imaginatively about its future. My South of Scotland colleague, Christine Grahame, recently hosted an event in Parliament on behalf of the National Federation of SubPostmasters, which outlined its six steps to a sustainable post office network proposals. Those proposals highlight the actions that all levels of government can take to increase the viability of the network, including making better use of post offices and considering ways of creating a post bank. Those are exactly the kind of initiatives that a post office diversification fund could help to support. Indeed, the FSB's report highlights the impact that the

diversification fund in Wales has had since its implementation. Although we all recognise the severe pressures on the budgets of the Scottish Government and local authorities, I hope that some consideration can be given to ways of supporting the sustainability and diversification of our post offices.

Of particular interest to me was the idea of encouraging the sharing of post office facilities with tourist information services or with facilities by which people could access the services of local authorities and organisations such as credit unions. Given that the post office network has an unrivalled geographical spread and that not every part of Scotland has tourist information centres or access to credit unions, those combinations could be marriages made in heaven. Support to develop such important services could help to provide a boost to local economies during this time of recession. If there are ways of providing tourism spin-offs and giving people access to banking facilities that they can trust while retaining important and much-loved post offices across Scotland, it seems sensible for all levels of government to consider those possibilities.

17:37

The Minister for Enterprise, Energy and Tourism (Jim Mather): I congratulate Christine Grahame on securing the debate and acknowledge her consistent record on the matter. Her work to help build a dialogue between the National Federation of SubPostmasters and me led to a well-attended stakeholder consultation event last June, at which we were able to place in clearer focus many of the issues that have been raised today.

Obviously, the Scottish Government acknowledges the valuable social role of post offices, particularly in deprived and remote areas, but we also have to acknowledge that post offices and postal services are a matter that is wholly reserved to the UK Government. Irrespective of that fact, we are committed to supporting post offices, and we continue to urge the UK Government and the Post Office to ensure that sustainable post office networks can continue to serve Scottish communities.

Like members who have spoken tonight, we are adamant that our post offices are needed to deliver vital services and be the crucial glue that binds communities and enables them to function in social and economic terms. That is why we ran that consultation last June. It confirmed that many options are available for the co-location of services, with community planning partnerships being well placed to take decisions at the local level and help to make that happen. Indeed, there is a bit of scope for running a similar event with

local authorities, to ensure that we are making the connections at a local level through the CPPs. I am more than happy to help that process.

Of course, we are well aware of the post office diversification fund in Wales and are keeping an eye on its uptake and results. The initiative is interesting, but we need to consider its costs and benefits before considering the merits of having an equivalent initiative in Scotland. That is work in progress—as we heard tonight, the Liberal Democrats are tabling that as part of their budget negotiations. Based on the reiterated support that has come from all parts of the chamber this evening, I am sure that that argument will now have extra weight behind it.

We must ensure that the postal service learns not only from Wales, but from other areas too. We should also take advantage of other initiatives, such as the small business bonus scheme. That scheme should not be forgotten, as any post office that has a rateable value of less than £15,000 will benefit from it. The main issue is that there is categorical recognition of the Welsh proposal and that it is taken account of by the Government and the Parliament as a function of the debate.

I welcome Christine Grahame's acknowledgement that the Government faces a difficult set of decisions at this time. The issue is being debated among the parties, and we will drive it forward.

The key element that has arisen from today's debate is the need for realignment. The figures for consultation responses that I have heard today—98 per cent, 95.6 per cent and 99 per cent—are higher than any referendum figures that I have heard before. That establishes that our post offices are aligned with their customers and their communities, and have a solid reputation. They have customers who are not only loyal and dependent, but who are advocates of the postal service and continue to use it in all the ways that have been described today. We have heard that the post office can be a local Reuters and a source of advice, and even that it can act as an adjunct to social care provision in Scotland. Post offices provide assistance on the day and in times of need; staff are aware of the need for assistance and act on it.

We have heard some valid thoughts on diversification, with regard to credit unions and banking. The Department for Business, Innovation and Skills is actively considering that idea. I share the Communication Workers Union's opinion that the concept of a one-stop shop is important. The consultation on that deserves to hear many voices.

John Lamont must consider the fact that any proposition needs to be balanced. There is a need

for a rural focus, but not all urban post offices are in prosperous city-centre locations, so we must ensure that we balance those needs.

I empathise with Christine Grahame, Jamie Stone and Cathy Jamieson, as I see a similar situation in my constituency. We need to consult not only with the stakeholders that we got into the room the first time around, but with a wider group. Jamie Stone mentioned the banks; other banks could certainly come forward. The gradual stripping away and narrowing of the revenue streams for post offices is not the way to go. We need to reverse that trend and widen the revenue streams to give post offices the chance of viability, so more revenues from various sources are flowing into their coffers.

I have keenly taken on board all the messages that I have heard tonight, particularly Aileen Campbell's helpful comment about post-event trauma. When a post-event audit is carried out, it is evident that the effects of the decision have been keenly felt, that real pain has been caused and that there is a chain reaction of negative effects.

We need, between the parties, carefully to evaluate the benefits. We should consider not only the short-term benefits, but the issue of long-term viability and how we can assist that.

We must balance post offices with the other businesses that are in the competitive mix. However, the basic point is that a vibrant postal service is recognised on all sides of the Parliament and by the Government as fundamental to the wellbeing of Scotland in social and economic terms. Other businesses are additional stakeholders, and we need to get them into the room to work with us to identify yet more things that the post offices could do for them, and to bring in ideas for further diversification.

Christine Grahame: I understand that the minister cannot make any financial commitments today, but will he consider convening—as he may already have done—the other stakeholders that members on all sides of the chamber have mentioned in tonight's debate to co-ordinate the work on the issue? Not every solution will suit every area, but it seems that the lack of will and the lack of co-ordination of services are causing a logjam, when we could be resolving which services different sub-post offices provide.

Jim Mather: We will press those who attended the first meeting in June to tell us where progress is being made. The more we carry out this type of work at local authority and community planning partnership level, the more chance there is that we will throw up ideas. There might be ideas in the Borders that I can take to Argyll and Bute, or ideas from Argyll and Bute that might work in Ayrshire. It

is a question of learning from what has been happening in other areas. Community planning partnerships in Kilmarnock and West Lothian have successfully pulled together lots of other threads and streams of services and managed to make efficiencies out of that. The more we start the evolutionary process of dialogue with colleagues and other stakeholders, the better the result we will get.

Meeting closed at 17:45.

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