

EDUCATION, CULTURE AND SPORT COMMITTEE

Monday 15 May 2000
(*Afternoon*)

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EDUCATION, CULTURE AND SPORT COMMITTEE **17th Meeting 2000, Session 1**

CONVENER

*Mrs Mary Mulligan (Linlithgow) (Lab)

DEPUTY CONVENER

*Karen Gillon (Clydesdale) (Lab)

COMMITTEE MEMBERS

*Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)
*Lewis Macdonald (Aberdeen Central) (Lab)
*Mr Kenneth Macintosh (Eastwood) (Lab)
*Fiona McLeod (West of Scotland) (SNP)
*Mr Brian Monteith (Mid Scotland and Fife) (Con)
*Cathy Peattie (Falkirk East) (Lab)
*Michael Russell (South of Scotland) (SNP)
*Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)
*Nicola Sturgeon (Glasgow) (SNP)

*attended

THE FOLLOWING MEMBERS ALSO ATTENDED:

Malcolm Chisholm (Edinburgh North and Leith) (Lab)
Peter Peacock (Deputy Minister for Children and Education)

CLERK TEAM LEADER

Gillian Baxendine

SENIOR ASSISTANT CLERK

David McLaren

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 2

Scottish Parliament

Education, Culture and Sport Committee

Monday 15 May 2000

(Afternoon)

[THE CONVENER *opened the meeting at 14:03*]

Standards in Scotland's Schools etc Bill: Stage 2

The Convener (Mrs Mary Mulligan): The first item on the agenda is the Standards in Scotland's Schools etc Bill. We will start where we left off last Tuesday.

After Section 37

The Convener: We come to amendment 49, which will be debated on its own.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I will not say a great deal about the amendment, because it is pretty obvious from the amendment itself what I am saying. I trust that the minister will recognise the spirit of my intention. I am not an expert in legalese, so there might be difficulties with the amendment; I accept that.

I ask the minister for his comments. If the amendment is difficult to accept at stage 2, could he come back to me with a good form of words at stage 3?

I move amendment 49.

Fiona McLeod (West of Scotland) (SNP): I support amendment 49. It is essential that young children have a say in something as fundamental as whether they should be at school—whether they should be excluded. For people under 16, the case could easily be made that they could understand the situation that they were in and the procedures that they would have to follow. I hope that the minister will take that into account.

The Deputy Minister for Children and Education (Peter Peacock): The amendment is helpful in giving me the opportunity to explain some matters and to outline actions that we propose to take, which will, I hope, meet the good intentions of Jamie Stone and Fiona McLeod.

We strongly support article 12 of the United Nations Convention on the Rights of the Child. The article stresses that the child's point of view should be represented and taken into account in

formal proceedings. I can confirm that education authorities have been issued guidance encouraging them to incorporate the substance of article 12 into their appeal procedures for exclusions. However, as Jamie Stone alluded to, amendment 49 gives us some difficulty technically. The introduction of a right of appeal for children under 16 would cut across the existing legal responsibility for parents to ensure the efficient education of those children.

Article 12 makes it clear that the opportunity to be heard in any judicial and administrative proceedings must be consistent with existing national law. I give Jamie Stone an undertaking, however, that the current regulations relating to exclusions will be amended at the earliest opportunity to require education authorities to seek the views of pupils at all stages in the exclusion process. The main stages would be these: before a decision to exclude is taken; during an appeal by parents, which is supported by their child; or where the parents support the exclusion but the child does not. The right of children to have their views sought in the third situation cannot be equated with a formal appeal procedure, for the reasons that I explained. In each case, however, the views of children—should they wish to express them—must be taken into account by the school in arriving at, or reviewing, a decision to exclude.

As allowed in article 12, provision will be made for those views to be expressed through the parent, or other representative of a child, in addition to being expressed directly by the child. I will put the draft regulations to the committee for its consideration, when they are drafted in due course.

On that basis, I hope that Jamie Stone will feel able to withdraw his amendment, with the reassurances that have been given.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): Quite often, we say that we agree in principle but are a little worried about the practice. I worry about bringing sheriffs and so on into the matter, because of the delay that is involved in those formal proceedings. While we want justice to take its course, there could be problems either when a child is excluded while this long process goes on, or when a child whom the authority feels should be excluded is in the school for a long period causing the difficulties that have made the authority consider excluding them.

We often see such a problem in relation to special educational needs registration. If the procedure takes a long time, damage is done while the process is continuing. I am happy with the assurances that the minister is giving, without getting into formal proceedings involving the sheriff.

Peter Peacock: The appeal that is being talked about would not be to a sheriff in the first instance; these are internal procedures of the school and the local authority. There is a right, ultimately, for an appeal to a sheriff, but that is not what I am referring to.

We are suggesting that we do not need to amend the primary legislation; the regulations to which I have alluded will be able to cope with these matters and to give the firming up that we require, without cutting across the provisions to which I have referred.

The Convener: Would Jamie Stone like to make a concluding remark?

Mr Stone: I am minded to withdraw the amendment. Fiona McLeod, other members and I will examine carefully the proposals that the minister makes. I trust that he accepts the spirit of the amendment.

Amendment 49, by agreement, withdrawn.

Section 38 agreed to.

Section 39—Placing requests: extent of education authority's duty

The Convener: We move to amendment 128, which is grouped with amendments 129, 130, 68, 131, 132, 133, 69, 70, 134, 135, 136, 137, 138 and 139.

Amendment 128 not moved.

Section 39 agreed to.

Section 40—Further provision as respects placing requests

The Convener: We now come to amendment 129.

Nicola Sturgeon (Glasgow) (SNP): Amendment 129 is a probing amendment, to borrow Brian Monteith's terminology. A range of people have expressed concern to me that section 40(2) will remove the possibility of parents of children who are commonly referred to as gifted children making placing requests if the child is under school age. The amendment, by deleting the subsection, would make it clear that parents would retain that right.

If the minister can assure me that that is not the effect of the subsection, I will gladly withdraw the amendment.

I move amendment 129.

Ian Jenkins: Amendments 68 and 69 attempt to flag up the fact that the original provisions were a bit unclear in certain respects and difficult for people to follow. I have discussed the matter with the minister and recognise that the wording of the

amendments is, in some ways, flawed. I recognise also that the minister has backed another amendment.

The matter must be dealt with in such a way that decisions are clear and fair, and parents find them transparent and understandable. I recognise the difficulties involved in placement, but ultimately there should be some kind of discretion for the education authority in exceptional circumstances, as set out in new subsection (1D), in amendment 69. People might say that that will be a toe in the door for those who want to change things, but there must be a wee bit of flexibility.

I find myself going against the wording of the amendments in the case of children from one authority who go to the school of another, which happens across the boundaries of Karen Gillon's constituency and my own. We have a difficulty with four-year-old children, who have spaces with the receiving authority, having their spaces taken up by three-year-old children who stop the incoming four-year-olds coming in. I understand if that is difficult to grasp—we will give the minister the details later.

There is a problem with receiving authorities which say that there are no places. As written, my amendments would allow South Lanarkshire Council, for example, to fill up the spaces with its own three-year-olds, forgetting the needs of the Tweeddale, Ettrick and Lauderdale four-year-olds, who will go on to a Lanarkshire primary school. I realise that that is difficult to follow.

We need to examine that matter. I hope that the minister will be able to say that, with the Convention of Scottish Local Authorities, we will have a big, proper look at it.

The Convener: To clarify, Ian Jenkins was speaking to amendments 68, 69 and 70.

I call Brian Monteith to speak to amendment 138.

Mr Brian Monteith (Mid Scotland and Fife) (Con): I do not intend to press it.

The Convener: Does anyone else want to speak?

Karen Gillon (Clydesdale) (Lab): I will not press the amendments in my name. However, I recognise that there is a problem in the bill as it is currently worded. The concern that local authority colleagues and I have is that it will lead to further confusion and perhaps even further court cases, because much of what is in place is determined by local authorities' interpretation rather than by factual information, which might change by the end of year 3.

I understand that the minister has lodged a number of amendments. Will he indicate how best

we can move towards a position in which children who should be in a school are located there, so that we are not in the present situation, where there are a number of court cases about placing requests? Such cases are detrimental to the child rather than the parents. We need to consider how best to deal with that.

In relation to Ian Jenkins's point, I fully understand why children from the Borders would want to be educated in South Lanarkshire, but there is an anomaly between the situation in nursery education and that in school education. If children come in at primary 1, it is best for them if they have been at nursery with the children with whom they will be in primary 1—it helps to build relationships and foster friendships, and helps the educational development of the child.

I would appreciate the minister's comments on how we can start to square the circle of placing requests.

14:15

Nicola Sturgeon: I support the thrust of Ian Jenkins's amendments. The placing request system is in need of reform, as the ministers, I know, have accepted. A huge number of court cases result from the current system and there is reasonable evidence that, in many instances, that is because the rules are unclear or are not understood by parents.

The rhetoric surrounding the placing request system—the language of parental choice—raises expectations. When those expectations, for good reason, cannot be fulfilled, parents feel aggrieved. Some of that could be avoided if we had in place a system that was understood by parents from the outset.

The system will never satisfy everybody's desires about where to send their children to school, but if the rules were at least understood better, we might be able to avoid some of the court cases. Ian Jenkins's amendments might not be the best way to achieve that. I will listen carefully to what the minister has to say and will be looking for some acceptance on his part that the status quo is not good enough.

The Convener: I invite the minister to speak to his amendments and to respond to the points raised by members.

Peter Peacock: I will try to deal with the whole lot. This was an extensive series of amendments when we started, but it has thinned down slightly as we have proceeded. What lies behind Ian Jenkins's amendments is the fact, as Nicola Sturgeon indicated, that this is a complex area. Earlier in our proceedings on the bill, we referred to the equally complex question of deferred entry;

placing requests also have a range of complications. Not a great deal divides us in what we are trying to achieve. We need to find the right legal provisions to achieve it.

As you said, convener, we have lodged a number of amendments to take the matter forward and to provide greater clarity. I will deal with the amendments that are left in order. I will deal first with amendment 129, in the name of Nicola Sturgeon.

As Nicola Sturgeon indicated, the current legislation is unclear as to whether a placing request can be made for children under school age. Indeed, in a number of judgments, sheriffs have commented adversely on that state of affairs. Our intention is to make the matter clear, to remove any doubt. However, we propose to balance it in section 35 by requiring authorities to consider cases on their merits against the criteria that are set out in section 35, which are more appropriate than the reasons for refusing a placing request. Section 35 deals with the admission of children under school age to primary school, and is designed specifically to cope with that. Amendment 129 would leave the law as unclear as it is at present. On that basis, I hope that Nicola Sturgeon will withdraw that amendment.

Amendments 68, 69 and 70 deal with an area where we are all clear about what we are trying to do; the challenge is to find the right definitions. Ian Jenkins has stated that he is not entirely sure that amendment 68 meets all the requirements; none the less it tries to push the arguments forward. At its heart, that amendment raises the issue of school capacity. It is difficult to address school capacity in legislation in a way that allows enough flexibility to take into account individual school circumstances. The issue has been examined in the past, but no practical solutions have been found. I appreciate what the amendment is intended to achieve, but I do not believe that it would be practicable. I know from his earlier remarks that Ian Jenkins concurs with that view.

Parts of amendment 69 deal with issues that are already covered in the bill. Authorities are already required to set a maximum number of pupils for each room in a school, and are required to publish guidelines on the allocation of places in schools when there are more placing requests than places available.

Amendment 70 removes subsection (4). That subsection sets out an additional reason for refusing a placing request, if the granting of a request would require the formation of an additional class or the appointment of an additional teacher at a future stage of the child's education at primary school. That additional ground is necessary in the light of the Executive's policy on reducing class sizes in P1 to P3, and to

avoid creating administrative difficulties further up the school as a consequence. Amendment 69 refers to class size regulations, but does not adequately replicate the provision that we intended to make when we drafted the bill.

We are therefore not inclined to accept the details to which Ian Jenkins alluded, which is why we lodged amendments 132, 133, 134 and 136. No perfect answer has been offered by any of the members' amendments. We have a strong reservation about them, and some have been withdrawn. We need to give further flexibility to councils, to try to pursue some of the matters that members have raised, which is why we lodged our own amendments. Central to all the arguments is the capacity of a school: that is the key issue in many cases that go to appeal. Authorities and parents will benefit from greater clarity on such issues, as set out in our amendments.

Amendments 132, 133, 134 and 136 would introduce an additional reason for refusing a placing request, on the ground that granting that request would breach the capacity of the school. We intend to develop a definition of capacity and its assessment in schools, and we intend to address that through guidance under section 40. I propose to accept COSLA's suggestion of formulating guidance on the way in which capacity can be better defined. That is a highly complex matter, and it is important to have the key players round the table to find a longer-term, lasting solution that will provide the clarity that members seek. Many factors are relevant, and we need to get the solution right if we are to make progress.

The additional reason for refusing a placing request will come into play once that guidance has been agreed. When that happens, the system will operate with much greater transparency and will properly reflect the balance between an authority's interests, the interests of parents and other interests in the community.

I therefore ask members not to press their amendments to section 40, in the light of the Executive's amendments and the assurance that we will work closely with COSLA and other interests to find a proper solution.

The Convener: Thank you. Does Nicola Sturgeon wish to respond?

Nicola Sturgeon: No.

The Convener: Does Ian Jenkins wish to say something?

Ian Jenkins: First, what is the time scale? Secondly, we are not looking just for reasons to refuse placing requests. I hope that parents' groups will be involved in the Executive's discussions with COSLA.

Peter Peacock: We are trying to find the correct balance between all the interests. We want to end up with a situation in which people who arrive in a particular catchment area are not forced to send their children to school in another catchment area because of the way in which the rules work. Everybody agrees that that would be an unfortunate circumstance. This is also a matter of finding a balance between parental rights of choice and the wider interests that I mentioned.

If Ian Jenkins pursues with me the points that he made in his opening remarks, I should be happy to feed those into the discussion. We are not looking just for reasons to refuse placing requests; we are trying to find the correct balance between the competing interests. In respect of the time scale, I hope that we will be able to implement the guidelines as quickly as possible.

The Convener: Does that answer Ian Jenkins's question?

Ian Jenkins: Yes. On the basis of those comments, I shall not press my amendments.

Amendment 129, by agreement, withdrawn.

Amendments 130, 68 and 131 not moved.

Amendments 132 and 133 moved—[Peter Peacock]—and agreed to.

Amendments 69 and 70 not moved.

Amendment 134 moved—[Peter Peacock]—and agreed to.

Amendment 135 not moved.

Amendment 136 moved—[Peter Peacock]—and agreed to.

Amendments 137 and 138 not moved.

Section 40, as amended, agreed to.

After section 40

Amendment 139 not moved.

After section 51

The Convener: We now come to amendment 141.

Peter Peacock: I am pleased to introduce a new section that will give Scottish ministers the power to issue guidance on the conduct of sex education. The section will require local authorities to have regard to such guidance, and I am pleased that the new section has cross-party support. Both Nicola Sturgeon and Brian Monteith have added their names to the amendment, and I know that other members will indicate their support for it.

The amendment provides statutory backing for guidance on the conduct of sex education. In

introducing the amendment, the Executive is responding to the committee's recommendations, which were made at earlier meetings. In your report to the Local Government Committee on the Ethical Standards in Public Life etc (Scotland) Bill, following evidence from many people, including the Scottish Parent Teacher Council, you recommended that the Executive consider giving statutory backing to its guidance on the conduct of sex education.

As I indicated last week, the debate on those issues has continued. Ministers have been giving careful consideration to this committee's views in the context of that debate. We have also continued to receive representations from parents. We have a common objective: to ensure that there are adequate safeguards to guarantee that the teaching of sex education is appropriate and suitable for the age and maturity of the pupils involved.

I set out in some detail last week the comprehensive range of measures that we have taken to create a package of safeguards to ensure that current best practice continues and is extended. Those safeguards include guidance to local authorities that sets out details on the conduct of sex education. I also set out how matters were still developing. There will be consultation with parents before a programme of sex education commences. There will be procedures to ensure that parents' concerns are addressed. Both those issues will be included in the guidance to education authorities on the conduct of sex education. I propose to put in place measures to give statutory underpinning to that guidance.

I want to make it clear that it is our intention to use the powers under the new section. I hope that the committee will welcome it. It offers reassurance to parents and responds to the committee's earlier recommendations.

I move amendment 141.

14:30

Nicola Sturgeon: The SNP is delighted to support this amendment, which, as the minister said, was first suggested by Judith Gillespie of the Scottish Parent Teacher Council in February and has been advocated by the SNP since then. It was also passed as SNP policy by the SNP national council in March. I welcome the fact that the Executive has welcomed this sensible position. I believe that this amendment can settle the section 28 argument and, by providing a statutory anchor for local authorities, will give reassurance to parents without compromising either the principle behind the repeal of section 28 or the principles on which Scottish education is built.

In the past few days, the Scottish Executive has tried to sow confusion about the meaning of this amendment. That has undermined attempts to build public consensus. I notice that Sam Galbraith's recent line of argument has not been repeated by the minister today—I hope that that signals the Executive's coming to its senses. Mr Galbraith argued that only guidance, not guidelines, is given statutory underpinning. That is unsustainable. The amendment does not attempt to write guidelines into statute, something which neither the SNP nor the Scottish Executive has ever advocated. However, the draft guidance makes clear that a reference to guidelines is intended. Paragraphs 3, 4 and 5 deal with the conduct of sex education but paragraphs 6, 7 and 8 deal with curriculum advice and make specific reference to guidelines.

In giving a legal basis to guidance, this amendment would inevitably give a legal basis to guidelines. The argument that a local authority that chose to ignore guidelines could still fulfil its obligation to have regard to this guidance is unsustainable. I can only imagine that the Executive's reason for making that argument is that, having shifted on to what I believe is the right ground, it has panicked at the reaction of its back benchers and has tried to backtrack. I appeal to the Executive not to indulge in internal party political argument over this amendment, but to get behind an amendment that is sensible, workable and can provide a solution to the arguments that have raged around section 28. It is in that spirit that I am happy to give SNP support to the amendment.

Mr Monteith: The words of the minister are sweet music to my ears. It does not seem that long ago—indeed, it is less than a week—since I spoke to an amendment, however imperfect, that included a form of words not dissimilar to amendment 141. As Nicola Sturgeon implied, the words could bear the development of a future amendment and, indeed, seem to have borne fruit. I am led to believe that the decision to bring forward amendment 141 was taken before the previous meeting of this committee, at which we were told of the careful consideration that was being given to the matter of comprehensive safeguards, but that nothing of what I suggested merited further advancement. It might have been possible for the minister to say in stronger terms that consideration was being given to the proposal that we have before us today.

In spite of all that, I welcome the amendment and am happy to be associated with it. However, I would like clarification of a number of points, to allow us to have a more productive debate at stage 3—that the deliberations on guidance and guidelines are concluded and that the final information related thereto is before members of

Parliament prior to stage 3 of the bill. Ministers have undertaken to do that and a clarification would allow us to conclude whether we have enough safeguards in place.

My next point is perhaps pedantic, but I must point out that, while the amendment would insert the term “sexual and medical matters”, there is no mention of medical matters in the body of the amendment. I would like the minister to explain that.

Is the minister likely to further amend the amendment by renumbering it and placing it in section 12, where it would seem to fit better?

Karen Gillon: I welcome the amendment. As my colleagues will know from my comments on the Ethical Standards in Public Life etc (Scotland) Bill and in this committee last week, I believe that there is a need to provide further reassurance to parents about their children’s education following the repeal of section 2A. However, I want it on the record that the Labour group welcomes the repeal of section 2A, a particularly divisive piece of legislation.

Brian, I think that it is disingenuous of you to claim that your amendment led to the amendment today. If you read the *Official Report*, you will see that no member of the committee gave any support to you or your position because you were trying to change the basis of Scottish education. The amendment seeks to underpin valuable guidance that will take on board the genuine concerns not of a homophobic minority, but of parents who were concerned by the misinformation that homosexual pornographic material would be available in schools. That suggestion was unjustified and highly unlikely, given the professionalism of teachers.

The debate has been skewed in an unhelpful way. We needed to have a genuine debate about the issue of sex education in our schools and local authorities. However, the amendment is a positive step and I support it on behalf of the Labour group.

Michael Russell (South of Scotland) (SNP): I warmly welcome this amendment. It offers the opportunity to bring the debate to a conclusion that is satisfactory to the bulk of the people who have been involved. I understand the position of those who have argued against statutory guidelines. For some time, that was a live debate. It was obvious—and I made this point at the SNP’s national council—that, because so much scare-mongering was taking place and so much anger and fear was being stirred up, it was necessary to go a mile further to reassure those who had been encouraged to misunderstand the intention of repeal. I have backed this particular amendment and idea since that time, and I am glad that the Executive has now come on board. It is a pity that

it did so with spin and bluster on Thursday and Friday rather than doing so willingly, as it would otherwise have received more credit for that.

I echo what Karen Gillon said about the position of the Conservatives. Many members will remember that, during the Ayr by-election and thereafter, a huge virtue was made of the fact that, apparently, there had been a groundswell of opinion towards the Conservatives because of their position on section 2A. In reality, the figures do not bear that out, and the very fact that a party was prepared to say that indicates that that party was prepared to meddle in things that are not appropriately a part of democratic politics. It would have been nice to see the Conservatives moving towards their present position much earlier.

This debate has nothing to do with the farrago of nonsense from the Conservatives that we had to debate last week; it is a genuine attempt to find a solution. I am glad that the solution that has been found also lets the Conservatives off the hook, as Brian Monteith indicates by putting his signature to it today. That will make for a better debate and a better resolution, and I hope that this committee and the Parliament can now make progress, united in the fact that repeal will happen—repeal that will reassure many individuals, and that has long been awaited by many of us.

Mr Monteith: I regret the fact that members have a habit of trying to put either words or interpretations in my mouth, before attacking what I have allegedly said or implied. I do not seek to take credit for this amendment. If anybody deserves credit, it is Judith Gillespie, who is in the audience today, and whose contribution has been very helpful. I have simply tried to point out that, less than a week ago, several amendments that I lodged to create some discussion about the way in which matters may advance—and of which certain minor aspects were recognised as attractive in principle, or as something that we could work on—were dismissed completely and out of hand.

One would hope that, when members of this committee who are engaged in the legislative process are trying to elicit from ministers whether there is some leeway for adapting a bill or the possibility of developing cross-party consensus, the ministers would have the honesty to say that they are possibly going to go down that road and explore that opportunity. It is beyond my comprehension why this amendment was not considered at the previous meeting of this committee, especially when it was generally felt that the previous meeting might be the final reading of the bill at stage 2. If it could not have been considered at that point—possibly because a degree of consultation was required within or outwith the Labour group—at least some notice could have been given to this committee that the

ministers were thinking along the lines that this amendment indicates.

As I have said, it is good that this amendment has been lodged, and I welcome it. However, I remind Mike Russell that I have not said that this concludes the matter. If that means that I am jumping back on the hook, I accept that. We still have some distance to travel before this debate is concluded, but I welcome the direction that the Executive has taken today.

Mr Stone: As a parliamentary group, the Liberal Democrats discussed this matter at some length last week, and we are supportive of the amendment. I do not have much to add to what has been said already. If the SNP says that it thought of the amendment, that is all well and good. That is a tick in the box for the SNP. We are an inclusive Parliament.

I have a related point to make, on a subject that troubled me over the weekend. I had no problem with what Sam Galbraith said, but he talked about "his" committee repeatedly. It is important to establish the fact that we are a committee of the Parliament. I am not happy for any minister to speak of his or her committee, and I hope that Mr Galbraith will think again about that.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): I am here to move amendment 140, on equal opportunities. I hope that you do not mind if I speak briefly in this discussion. As the only non-member of the Education, Culture and Sport Committee to attend the meeting today, perhaps I am well placed to pay tribute to the work of this committee in the evolution of amendment 141. The matter was raised in your report on the Ethical Standards in Public Life etc (Scotland) Bill, which shows yet again that the committee mechanisms of this Parliament are working to good effect.

14:45

Committees provide a way into the political process for people outside the Parliament. It is appropriate that members have mentioned Judith Gillespie, as she was the first person to raise this proposal. Everyone should read her contribution in the *Official Report*, as it throws a lot of light on what this amendment is all about. She says:

"It would certainly not put in place any legal guidelines; nor would it put in place a statutory curriculum."—[*Official Report, Education, Culture and Sport Committee*, 15 March 2000; c 713.]

That is the point that Sam Galbraith was trying to get across over the weekend.

I am happy to support this amendment. No principle has been conceded in getting rid of this piece of discriminatory legislation. If anyone

outside the Parliament is minded to misread this, we should say loud and clear that no principles will be conceded. This is the end of the matter.

Ian Jenkins: I agree wholeheartedly with Malcolm Chisholm's comments on Judith Gillespie's contribution. You will read in the *Official Report* that, at the end of her contribution, both Michael Russell and I said that we had been moved by, and appreciated, the evidence that she gave on that occasion.

I suspect that, in strict legal and legislative terms, this amendment is not really necessary. The problems that it seems to address are more imagined than real, as there has been a great deal of misinformation. In practice, teachers are already working within parameters of professional good practice, and this amendment is no more than a reasonable gesture that will help to counter the misinformation. It is an attempt to underpin good practice, to establish a framework within which the education authorities and the teachers can work comfortably.

The amendment will give parents the reassurance that they have sought, and will give teachers some protection from ill-founded uncertainties. Therefore, as it takes a reasonable and practical approach to the problem, I support the amendment. It will assist us in getting rid of an offensive and discriminatory piece of legislation that is a blot on the escutcheon of the law.

Lewis Macdonald (Aberdeen Central) (Lab): Like Malcolm Chisholm, I welcome the content of this amendment and what it tells us about the working of our new parliamentary democracy. It demonstrates the way in which the committee system ought to work.

Judith Gillespie is probably already embarrassed by the references that have been made to her, so it is worth saying that it was not only her evidence, but the evidence of all the people whom we consulted, that suggested that no responsible or accountable body anywhere in the education system, or connected with it, was opposed to the repeal of section 2A. What people wanted was the kind of reassurance that this amendment provides. On the basis of the clear commitments that it contains, around which people can unite, all members of the committee should welcome and support the amendment.

Mr Kenneth Macintosh (Eastwood) (Lab): I apologise, but I tried to find common ground with my colleague Brian Monteith by arriving half an hour late for this meeting.

Michael Russell: That was your Jaguar arriving, was it?

Mr Macintosh: My apologies to you all.

I am delighted that amendment 141 is supported

by Brian Monteith and Nicola Sturgeon and that members have supported it at this meeting. I reached my position rather reluctantly, because I had felt that there was no need for this amendment and that we could remove section 28 without affecting the rights of parents. However, I have been persuaded that amendment 141 is necessary to reassure parents and to put them in the position that they thought they were in of being able to withdraw their children from sex education if they felt that that was necessary. Therefore, to echo what Mike Russell said, I hope that this draws a line under this matter in relation to this legislation.

The Convener: Before I ask the minister to respond, I wish to say that the committee has played a worthwhile role in relation to this amendment. Following the evidence that we had heard, we asked the minister to consider the introduction of such an amendment. It is to everybody's credit that we did that and that the amendment has been introduced.

On Jamie Stone's point about what Sam Galbraith said about the committee, we all know that the minister talks in a very friendly way and that he did not mean anything by what he said. However, it is important to make it clear that the committee is independent of the Executive and that it operates on behalf of the Parliament, and will continue to do that for as long as we are members of the committee. There should be no bad feeling about reported comments, but perhaps what is said in future will be more restrained.

Peter Peacock: I will resist the temptation to indulge in some of the political rhetoric in which others have indulged, because I feel that we have reached a position that has brought people together and has rallied people around our amendment. The only political point that I will make is that the amendment has been introduced by the Executive.

The amendment underpins statutory guidance and requires local authorities to have regard to that but—this addresses a point that Nicola Sturgeon made—does so in a way that does not involve writing detailed content of sex education into primary legislation. That is where Brian Monteith erred significantly and why his amendments were roundly consigned to the bin by the committee last week. He may argue that there were similarities between the amendment and what was before us last week, but in fact there were huge dissimilarities and that is why his amendments were dealt with as they were. However, I am glad that people have rallied round the Executive's amendment, which was willingly brought forward to try to provide the assurance that is sought.

I want to address a couple of points of detail,

about which Brian Monteith asked specifically. One was the question of why the amendment falls under the term "medical". That is simply because that is the embracing term for this section—there is no other motive.

Brian Monteith also asked about all the work that is being done in relation to the consultation on the guidance and the detailed package of safeguards that the independent group is considering and the refining of that package in the light of its recommendations. I cannot guarantee that that will be completed before stage 3, but the relationship between that work and the repeal of section 2A has been made clear, and the repeal of section 2A will not come into effect until all that work is completed. It would be unfortunate if, because of the timing of the bill, we rushed that detailed work to a conclusion in the next couple of weeks, as would be required. We can take more time, as Parliament has already been given the guarantee that the repeal of section 2A will not come into effect until that work has been done.

On another point that Brian Monteith made, now that we have reached common ground, it would be extremely regrettable to reopen this debate at stage 3. To address the questions that Karen Gillon, Mike Russell, Cathy Peattie and others have raised about the misinformation that has surrounded this issue, I think that it would be far better to agree the amendment and move forward. We have made a significant amount of progress. I hope that Brian Monteith will reflect seriously on that, particularly in the light of what has been said at this meeting.

Finally, I assure you that Sam Galbraith's comment about the committee, to which Jamie Stone drew members' attention, was not meant in a possessive sense. He meant that this is the committee to which he relates and to which he accounts.

Nicola Sturgeon: I will make one or two very brief points. I agree with the minister that it would be wrong and contrary to the principles underpinning Scottish education to attempt to write detailed guidelines into statute. He was right to point out that it was because Brian Monteith's amendments last week tried to do that that they got no support from any member of the committee.

However, I reiterate the point that a local authority that ignored guidelines on sex education would not fulfil its obligation to have regard to guidance. That is what provides vital reassurance to parents and gives us an opportunity to settle this debate. I hope that we can agree on that point, which moves us forward from the unfortunate confusion that Sam Galbraith caused at the weekend. I think that the committee is agreed on that point, and that gives me great confidence that we can argue this position, provide

reassurance and settle this argument once and for all.

The Convener: Minister, do you wish to add anything?

Peter Peacock: There is nothing that I could usefully add. We could end up in a detailed semantic argument. The important point is that, under the amendment, local authorities could not ignore the guidance that had been issued. They must have regard to the contents of the guidance.

Mr Monteith: Although we could end up in semantics, the fact that there will be further consideration to clarify the detail of the package suggests that there may still be some confusion that needs to be ironed out. It is only two weeks since we discussed the meaning of section 12—the minister may recall that debate. We may still have a short journey to make to clarify for everyone, and in particular for parents, what local authorities will have to take account of, and in what sense they will have to take account of that. I hope that that will be to our satisfaction.

Peter Peacock: The feedback that we have received on the draft circular to directors of education, which is part of the wider set of considerations that I outlined at our previous meeting, has been that it is a very constructive set of parameters. That is still a draft and is being consulted on, and will be tightened up. All that work will have to be done before the repeal of section 2A comes into effect, so that Parliament is clearly aware of the detail of that circular and other factors before a final vote is taken. That ought to be the reassurance that people require to allow us to move forward with the Standards in Scotland's Schools etc Bill.

Amendment 141 agreed to.

Section 52—Consent of child to medical procedures

The Convener: We now move to amendment 27, which will be debated on its own.

Peter Peacock: Section 52 of the bill takes account of section 2(4) of the Age of Legal Capacity (Scotland) Act 1991. It ensures that where, in terms of that provision, a child has capacity to consent to medical treatment, any medical or dental examination under section 57 of the Education (Scotland) Act 1980 or any examination or treatment for cleanliness under section 58 can only be carried out with the child's consent. This is a technical amendment to ensure that the definitions of "medical examination" and "medical treatment" that are given in the new provision, with reference to such examinations and treatment under sections 57 and 58, are without prejudice to the general meaning of those terms.

I move amendment 27.

Amendment 27 agreed to.

Section 52, as amended, agreed to.

After section 52

15:00

The Convener: I call Malcolm Chisholm to move amendment 140, which will be debated on its own.

Malcolm Chisholm: I am moving this amendment on behalf of the Equal Opportunities Committee. I made the mistake of lodging it on the final day for lodging amendments, so it has been changed slightly. Initially, it referred to promoting equal opportunities in accordance with schedule 5 to the Scotland Act 1998. Technically, that may not have been competent, although I am not sure why.

The point that I was trying to make is that the Scottish Parliament must promote equal opportunities in accordance with what is laid down in statute. It may be that some of the debate on this issue today and at stage 3 will focus our attention on what section L2 of schedule 5 to the Scotland Act 1998 means. This is the first opportunity that the Parliament has had to address that question. As I am sure most members are aware, equal opportunities is a reserved area, but exceptions to that reservation are listed in the section to which I have just referred. There will be some debate on what those exceptions allow us to do.

Schedule 5 to the Scotland Act 1998 includes a broad definition of equal opportunities, which includes sexual orientation as well as gender, race and disability, on which there is UK legislation. Under schedule 5, the Scottish Parliament can encourage equal opportunities, as well as ensure that public authorities pay heed to the requirements of UK legislation, as embodied in the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995 and the Equal Pay Act 1970. That seems to allow us to include a new section in this bill requiring the promotion of equal opportunities. I think that that is important at every level—not just at ministerial level, but also at local authority level and at school level. That is why subsections (2) and (3) of the amendment refer to local authorities and schools respectively.

There may be some controversy about the reference in section L2 of schedule 5 to the Scotland Act 1998 to

"The encouragement (other than by prohibition or regulation) of equal opportunities".

When I debated these issues at Westminster, I

understood that phrase to imply that the Scottish Parliament could not amend equal opportunities legislation. Neither I nor anyone else who took part in those debates understood it as meaning that the Scottish Parliament would not be able to promote equal opportunities. Indeed, it seems to me that the exception was included in the 1998 act precisely so that we could ensure the promotion of equal opportunities in all the matters for which the Scottish Parliament has responsibility.

I was pleased that the stage 1 report of the Education, Culture and Sport Committee took up the concerns of the Equal Opportunities Committee in this regard. In our report, we said that it was important that equal opportunities should be to the fore at every level—in planning, implementation, evaluation and inspection. We presented this committee with evidence from bodies such as the Equal Opportunities Commission and the Commission for Racial Equality, which indicated that the bill was not explicit enough about the matter.

I hope that the bill will contain a new section that emphasises the importance of the issue. I accept that the section will not do everything and that we will require guidance on this issue, too, to which local authorities will have regard, in accordance with section 12 of the bill.

I move amendment 140.

Nicola Sturgeon: I do not want to add much to what Malcolm Chisholm has said, other than to say that I support his amendment. On a number of occasions, this committee has made it clear that we would like the omission of any reference in the bill to equal opportunities and their promotion to be rectified. Amendment 140 would allow us to do that, and I hope that the Executive will be sympathetic to it.

Peter Peacock: Like Malcolm Chisholm, I would like to reflect the fact that this is a complex issue. As he indicated, there is an interaction between the Scotland Act 1998 and the reserved matters relating to equal opportunities; the Equal Opportunities Committee may feel it necessary at some point to explore that issue further.

I welcome the opportunity to speak to Malcolm's amendment. We want to do all that we can to advance equality of opportunity. I have had the opportunity over the past couple of weeks to talk to Malcolm about the technical reservations that we have with this amendment—he alluded to them—but in principle we want to do all that we can to support what he is trying to achieve. However, we do not want anything to impede the spirit of what he is seeking to achieve in relation to reserved matters. We believe that the amendment as drafted is technically flawed, in that it refers to "equality of opportunity" as defined under section

L2 of schedule 5 to the Scotland Act 1998, when the schedule contains no such definition.

However, I think that we have found a way in which we can, without falling foul of any other considerations, try to meet fully the spirit of what Malcolm is seeking to achieve. The Executive is prepared to bring forward an amendment at stage 3 that would place a new duty on local authorities. The new text would require councils in their annual statement of education improvement objectives to include an account of the ways in which they will, in providing school education, encourage equal opportunities, and in particular the observance of the equal opportunity requirements. Requiring local authorities to report on what they do annually would be a significant new protection for the promotion of equality. We have discussed the proposed amendment with the CRE and the EOC, and they agree that it would be a worthwhile and meaningful amendment to bring forward at stage 3.

I ask members of the committee to accept that the Executive's approach to this matter is to try to find a way forward and embed the promotion of equality into the accountability and improvement framework that the bill creates. However, for the reasons that I have indicated, and for the reasons that Malcolm indicated, I invite him to withdraw the amendment in favour of the amendment that we will bring forward at stage 3.

Malcolm Chisholm: I will withdraw the amendment, if for no other reason than that I accept that it is technically flawed, although I did not submit the words

"as that term is defined in".

Given that the amendment is technically flawed, I will have to withdraw it and have the issue debated again at stage 3.

I am pleased that the Executive will bring forward an amendment at stage 3, but I cannot guarantee that the Equal Opportunities Committee will sign up to it. It would be reasonable for the committee to look at the amendment first. There will be further discussion of this matter at the next Equal Opportunities Committee meeting, including some discussion of the scope of schedule 5 to the Scotland Act 1998.

I am pleased that, in his outline of what will be brought forward, the minister talked about encouraging equal opportunities and the observance of the equal opportunity requirements. I have two questions on that. First, is he saying that the duty will be only on education authorities, or will it also be on schools? Secondly, given that he can require local authorities to account for how they are encouraging equal opportunities, could he indicate why he thinks the wording

"shall promote equality of opportunity"

in subsection (1) of the amendment is not competent? Is it not competent simply because it includes school boards, or would it not be competent even if it only included ministers and local authorities?

The Convener: I will bring in Lewis Macdonald, then I will come back to the minister.

Lewis Macdonald: If I understand the minister correctly, he is suggesting something in relation to equal opportunities that is similar to what he has said to the committee in relation to Gaelic-medium education as a national priority. In other words, the bill recognises that equal opportunities is a matter on which authorities must report, which in itself gives a new status to the relationship between equal opportunities and the content of the bill. Is that the intention?

Peter Peacock: As Malcolm Chisholm indicated, we are in a technically complex area of law. I am not a lawyer and I stress that my comments should be understood in that context.

On Lewis Macdonald's first point, the provision requires local authorities, in this context, to report on the observance of the equal opportunity requirements; it is a fairly strong provision.

The points that Malcolm Chisholm raised about competence are ultimately matters for the Law Officers in the interpretation of reserved matters under the Scotland Act 1998. We do not think that it is right to require ministers to do something that they are already required to do in law. That raises questions and Malcolm alluded to other questions; we are suggesting this approach because we think that we have found ground where no questions are likely to be raised. Embedded in that approach is the spirit that Lewis Macdonald and others have said that they would like to see.

Malcolm asked about the distinction between schools and local authorities. I must tell him that there is no distinction, because schools are part of the local authority and are as bound by the provisions as is the local authority.

Malcolm Chisholm: The minister has made some interesting comments, which the Equal Opportunities Committee will consider at its next meeting. On the understanding that we will return to the issue at stage 3, I withdraw the amendment.

Amendment 140, by agreement, withdrawn.

Sections 53 to 55 agreed to.

Schedule 2—Minor and consequential amendments and repeals

The Convener: We now come to amendment 28, which will be debated on its own.

Peter Peacock: I apologise to the committee, but I must offer a technical explanation for amendment 28. Listen very carefully, as I shall say this only once.

Section 70 of the Education (Scotland) Act 1980 gives Scottish ministers the powers to take default action in respect of any breach of duty imposed on an education authority by, or for the purposes of, the 1980 act or any other enactment relating to education. The Interpretation Act 1978 applies in relation to the interpretation of the 1980 act. However, by virtue of an amendment made to schedule 1 to the 1978 act by subparagraph 16(3) of schedule 8 to the Scotland Act 1998, enactment in this context does not include an act of the Scottish Parliament. That means that any of the new duties being imposed on authorities in the bill, other than those being inserted directly into the 1980 act, would not be enforceable under section 70. Our intention has always been that the new duties in the Standards in Scotland's Schools etc Bill should be enforceable by that mechanism and we have introduced the amendment to give effect to that intention. I invite members of the committee to support the amendment. I would not be happy to answer any questions.

I move amendment 28.

The Convener: Who would ask a question on that?

Michael Russell: I was going to ask a question.

The Convener: But you could not think of one, could you, Mike?

Michael Russell: The explanation was so crystal clear that I felt that it would be unfair to question the minister further.

Mr Monteith: I had a thought. [MEMBERS: "Uh-oh."] I welcome the amendment because it is particularly important that enactment includes acts of the Scottish Parliament. Indeed, I had thought of lodging a similar amendment. I am pleased to support it.

The Convener: I take it that you have no further comments, minister.

Amendment 28 agreed to.

Schedule 2, as amended, agreed to.

Schedule 3 agreed to.

Section 56—Power to amend time limits in this Act

The Convener: Amendment 108 was debated last week with amendment 79.

Amendment 108 moved—[Peter Peacock]—and agreed to.

Section 57 agreed to.

Long title

The Convener: Amendment 109 has already been debated with amendment 105. I call Nicola Sturgeon to move it formally.

Nicola Sturgeon: As amendment 105 was not agreed to, amendment 109 would not make any sense, so I shall not move it.

Amendment 109 not moved.

Long title agreed to.

15:15

The Convener: Thank you very much. That brings us to the end of stage 2 of the Standards in Scotland's Schools etc Bill. I am grateful to members for their co-operation.

Peter Peacock: Convener, I would like to record my thanks to you for convening the stage 2 proceedings and to all members for engaging in what has been, for the most part, an extremely constructive dialogue. A lot of work has been done and the bill is improved as a consequence of the dialogue between ministers and committee members. I record my thanks to the clerks, who have a complex and difficult procedural job to do. [MEMBERS: "Hear, hear."] I also record my thanks to my advisers for all their hard work behind the scenes, which has kept me out of trouble for most of the proceedings.

The Convener: I think that the minister has thanked everybody who should be thanked. If there is anyone he has forgotten to include, they should also feel thanked. The bill will now be reprinted and should be available in the next day or two.

Before we discuss item 2, I should point out that I intend to take item 3 in private.

Committee Business

The Convener: There is a long list of items that I want to raise, but I shall try to accommodate contributions from all members who have something to say.

Lewis Macdonald: I draw the committee's attention to the latest developments relating to the Scottish Media Group and Grampian Television. Members may be aware that a report published last week was highly critical of Scottish Media Group's stewardship of Grampian Television. That followed on from our discussions about the regional content of programming on Grampian and from the evidence that we took from SMG's management on 1 March.

The Independent Television Commission report said that there were indeed grounds for concern and criticism. It echoed many of the things that were said in this committee. It said that, over the past two years, there has been a substantial and unacceptable reduction in the regional content of programming on Grampian Television.

Scottish Media Group accepted the weight of much of the criticism and set out how it intends to address it. The overall picture is that SMG has received its final written warning about the stewardship of Grampian Television and has been given six months to put its house in order. The ITC has indicated that it will maintain a high profile in the north of Scotland and will expect Grampian Television and Scottish Media Group to fulfil the promises that they made to the ITC in the agreement that was reached last week.

When we last discussed this issue, we said that we would await the annual performance review before taking the matter any further. That review is due in a couple of weeks, but last week's report and the responses to it move the agenda on. Over the six-month period when it will be keeping a watching brief on Grampian Television, the ITC intends to commission a survey of viewers' responses from a representative sample of viewers in the Grampian Television area. That will be fed into its consideration, which will monitor the whole of Grampian's output rather than just a proportion of it, as is normally the case.

The role that this committee played in holding SMG to account for its stewardship of the regional content of programming has been valuable. It has assisted the work of Westminster parliamentarians and of the ITC acting on their mandate. We should consider what else we need to do as the story unfolds over the next few months.

Michael Russell: One of the most positive things that came out of last week's events was the action of the ITC. There had been a great deal of

speculation as to whether the ITC would be prepared to act in such circumstances, but it showed in no uncertain terms that it would.

I know that the ITC had discussed the matter privately with SMG some time before publishing the report. SMG was keen to implement as much as of that report as possible, even without the notification, but it accepted the notification without reservation when it was published.

This is an opportunity for SMG to make a fresh start in its stewardship of Grampian. The industrial dispute, which caused us a lot of concern when we questioned SMG representatives, has now been settled, so I hope that this will be the start of a new period of activity and that SMG can reap the benefits of what has been a difficult period. It has genuinely tried to invest in the companies, although the way in which it has done so and the actions of the management have not been as sympathetic as they might have been.

We should consider this matter over the next six months and resolve at some stage whether we want to revisit the issue of commercial licences in Scotland. However, it would be fair to give SMG the opportunity to work on some of the solutions, now that it has agreed what the problems are.

Cathy Peattie (Falkirk East) (Lab): I agree with Mike Russell and Lewis Macdonald. It might be worth writing to the ITC to thank it for responding positively. As Mike said, we should keep a watchful eye on developments and inform SMG, the National Union of Journalists and the Broadcasting Entertainment Cinematograph and Theatre Union of our requests. We need to keep up to date. I am pleased with our progress so far, but we must not lose touch.

The Convener: At the previous meeting, we discussed returning to the issue and inviting back representatives. It would be a good idea to do as Mike suggests and leave the matter for six months; that will enable us to see what is happening before deciding whether we want to follow things up. Is that agreeable to members?

Members *indicated agreement.*

Lewis Macdonald: I echo Mike Russell's points about SMG's positive response to last week's report. That should be recognised.

The Convener: That concludes our discussion on Grampian.

Mr Stone: I wanted to talk about my report on rural schools. I was rather disconcerted to receive a telephone call from a journalist last week, saying that it is alleged in certain quarters that I am dragging my feet on the report in view of the so-called Argyll situation. I want to emphasise that my report is complete bar the evidence from Moray Council. Hitherto, there have been difficulties—

perhaps that is too strong a word—that I am sure you can confirm we are in the process of resolving, convener. Once we have the Moray Council stuff, we can complete the report. I am anxious to get it finished. It has been dragging on and you know how frustrated I have been about the situation. Nine tenths of the report is ready.

If the committee is minded to send me to Argyll, it must take that decision. However, as far as I am concerned, there can be one final council visit, after which the matter must come first to this committee, rather than to the press or to anyone else. I want to go on the record as saying that, although it may be inadvertent, I object to being used as something of a political football while I am writing a report on behalf of the committee, whatever a council may be trying to do. I say that to clear the air and to get my view into the *Official Report* as hard copy so that people can be clear about where I am coming from.

I am conducting an investigation into the issues that affect rural councils and that can bring about rural school closures and my report is a report to this committee. I hope that you can confirm, convener, that I shall be meeting people from Moray Council. If that meeting has been cleared, I hope to present the report to the committee in a week to 10 days.

The Convener: I can confirm that the clerks have received a letter agreeing that you should visit Moray Council. I hope that that visit can be arranged as quickly as possible and that you will be able to present your report to the committee shortly afterwards. We always recognised that, while you were reporting on rural school closures, the committee might want at some stage to take the issue further, based on your report.

Michael Russell: I understand that the committee will receive a petition next week on the closure of a primary school in Argyll. Because I have had sight of the correspondence, I know that it will also raise more interesting issues on school capacity, which Ian Jenkins spoke about today, and on the use of information and statistics by local education authorities to pressure parents into making decisions. Without prejudging that petition, I am sure that the committee will want to treat it seriously, as it comes well founded and from good sources, and to determine how it integrates into Jamie Stone's report.

Our options are to ask Jamie to extend his report to include that petition or to hold a separate inquiry with the specific remit of investigating the petition. One way or another, the issue will not go away. While Jamie's report will, no doubt, inform our discussions, the issue is likely to become live again, given that that petition has been submitted.

Mr Stone: I am entirely in the hands of the committee—I shall do whatever committee members deem best.

The Convener: I am aware that that petition is coming; the Public Petitions Committee has already discussed it.

Michael Russell: Yes, it has.

The Convener: At this stage, I want Jamie to complete his report, which may well inform our discussion of the petition. Unfortunately, it is unlikely that this is the last time that a local authority will have to consider the possibility of school closures. I had hoped that Jamie's report would be able to inform us about the procedures that were being followed and how closely communities felt that they were involved. That would have given us some information in order to be able to consider the matter in a bit more detail at a later stage.

I am afraid that, if we yet again delay the report so that we can wait for the petition, we are likely to get something from someone else in the meantime and we will never reach a conclusion. I am not saying that we should ignore the petition when we receive it, but we should use the information that we will get from Jamie's report to deal with it. If additional information is needed, we will take that on board at that time. Is that agreed?

Members indicated agreement.

Michael Russell: I ask members to note further developments in the continuing saga of Scottish Opera. The Sunday papers yesterday contained some fairly incredible reports—which I understand to be substantially true and to which the BBC will make further contributions tonight—that it is now admitted that the merger will apply only to the boards of the companies and to nothing else. That story is germane to this committee's remit in a number of ways.

I will give no secrets away, but members will remember that, in private session, we agonised over whether we should support the merger. The key factor, which I think all members will accept, was that we believed that the situation had gone so far and so much money had been spent on it that it was foolish to go back on the merger. If we now discover that the merger is no longer happening, which appears to be true, and that the only merger will be between the boards of the companies, large questions arise on the amount of money spent on the merger, the philosophy behind it and Scottish Opera's means of operating. That is one of the key issues: we had hoped that, at the end of our inquiry, Scottish Opera would adopt an open and accountable means of management. However, if this story is true, the merger has been shelved without anyone, including the Scottish Arts Council and the

Executive, being told. Quite simply, Scottish Opera has been found out—it seems that the company is acting in the bad old ways.

I suggest that, in the light of those reports, on which I will certainly lodge questions, we should revisit this issue in a week or two to see what the truth of the matter is. We might also want to ask individuals from Scottish Opera to come back to the committee for a supplementary discussion, to determine whether they have learned any lessons at all from what happened over the past year.

Cathy Peattie: I was not surprised when I read the papers yesterday. Many of us were convinced that the merger would never work—that it was not working—and that people were just paying lip service to the idea. The news is not at all comforting and, despite the time that we spent on our inquiry, I am not satisfied that we have sufficient information to hand. If we have time, I would like to revisit our inquiry in order to consider what is happening now. We were told, "Okay—we've moved along. The merger's going to happen and that will make it so much easier." My sources in the trade unions indicated that the merger was not working, but that they wanted to give it a chance. As far as we can see, there has been no real merger of the companies.

The Convener: As an initial move, I suggest that I write, as convener, to Duncan McGhie, the chairman of Scottish Opera, about the concerns that have been raised by the media. That would give him an opportunity to put the record straight and outline how he sees the situation. Following that, we may want to call witnesses, but I think that we should get his response first, so that we can determine the accuracy of the reports that we have read.

Michael Russell: Duncan McGhie was unresponsive about workers' representatives on the board. That issue should also be raised with him, because months have gone by, yet nothing has happened. It would be nice to have information on Scottish Opera from someone else, too. We might ask the trade unions that gave evidence to us before to give us their view of what has happened in writing, so that we are not relying on a single source.

Cathy Peattie: I support that.

The Convener: Are we happy to do that? Fine.

Mr Monteith: I suggest that, as well as seeking Duncan McGhie's opinion, we seek the views of Scottish Ballet and the Scottish Arts Council. We would want to hear the ballet's opinions for obvious reasons—it is the other party—but we want the SAC's views because part of our discussion was about the extent to which it was aware of what Scottish Opera was doing and what decisions it was taking. It would be interesting to

find out the extent of its involvement in any aspect of the outcome, and to find out its view.

15:30

The Convener: I am not unhappy about that. My original suggestion was based on the fact that Duncan McGhie was to be the chair of the joint Scottish Ballet-Scottish Opera board, and was representing both. I am more than happy to contact the Arts Council as well.

If there are no other remarks on that, I will turn to the special educational needs inquiry. I would like to confirm that we will be cancelling the meeting on 7 June in order to give us a week to try to fit in the visits for the inquiry. That will be arranged with Ian Cowan, the clerk. I ask members to make an effort to attend when they say they are going to. People get geared up to accept us and it is disappointing if we cannot make it. I know that members do not do that deliberately, but I ask them to bear that in mind.

Michael Russell: On a point of information, convener, I presume that the stage 2 meetings that have not been used are also cancelled.

The Convener: No, Mike. We gave out a list of additional meetings last week. We were going to start taking evidence on special educational needs.

Michael Russell: I did not see that—I was not at one of the meetings.

The Convener: We will cancel the meeting on 7 June and will draw up a fresh list—you will get a copy of it.

Michael Russell: Thank you.

The Convener: That will mean that we will not have all-day sittings, but we will probably have a meeting a week.

The Parliamentary Bureau has decided to continue with the monthly meetings in Glasgow and Stirling. We are looking for a suitable date to take this committee to either city. We will let members know about the date as soon as possible.

Mr Macintosh: The bureau has decided to do what?

The Convener: It has decided that committees should meet once a month either in Glasgow or Stirling.

Mr Macintosh: Each committee—

Michael Russell: No. A Monday afternoon slot in Glasgow and Stirling is now booked permanently. We are asking committees to make use of that slot if they can. We are encouraging committees to do so because the facilities are

there—and it helps with the facilities here in Edinburgh.

The Convener: We are seeking a date when we could take that up. It might be useful to take evidence outside Edinburgh.

Last Thursday, I attended on behalf of the committee a launch of a learning disabilities report at Murrayfield stadium. Although the detail of the report is excellent, it is lengthy, and not everybody will want to read it all the way through. A video has also been produced. It is no longer than 10 minutes and is valuable in allowing children and adults to put forward their needs and views. I suggest that, at some stage, we try to timetable that in. Although it is not strictly related to our special educational needs inquiry, there are some overlaps, and it would provide us with useful additional information for the inquiry. Would the committee be happy to see that video?

Members indicated agreement.

The Convener: Finally, I inform the committee that the Executive has now produced a response on the children's commissioner. Members will recall that we had asked the Executive for a memorandum. I hope to put that on the agenda for next week's meeting.

Do members wish to raise anything else?

Mr Monteith: I was wondering whether Mike Russell had any more news on the film inquiry.

Michael Russell: A press statement has been issued and a letter has been drafted. I have to agree to the list of people to whom the letter is to be sent, and then everything is hunky-dory.

The Convener: Thank you. As I indicated, we will take the next item in private.

15:34

Meeting continued in private until 15:39.

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