

# **EDUCATION, CULTURE AND SPORT COMMITTEE**

Tuesday 23 May 2000  
(*Afternoon*)

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## EDUCATION, CULTURE AND SPORT COMMITTEE

### 18<sup>th</sup> 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:

Mrs Margaret Ewing (Moray) (SNP)  
Mr Duncan Hamilton (Highlands and Islands) (SNP)  
George Lyon (Argyll and Bute) (LD)

#### WITNESSES

Rhiona Bell (Scottish Executive Finance Department)  
John Elvidge (Scottish Executive Education Department)  
Mr Sam Galbraith (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

Tuesday 23 May 2000

(Afternoon)

[THE CONVENER opened the meeting in private at 13:44]

14:03

*Meeting continued in public.*

### Budget Process

**The Convener (Mrs Mary Mulligan):** Good afternoon, everybody. I am aware that we are rather pushed for time this afternoon, and I know that the minister has other engagements, so I would like to make a start. I thank Sam Galbraith for attending this afternoon's meeting to answer questions on the budget of the education department.

Minister, it has been suggested that we divide the questions into four areas: general issues, education issues, children and young people, and culture and sport. We will try to keep to that, but if there are overlaps, I am sure that you will bear with us. Would you like to take this opportunity to introduce your team?

**The Minister for Children and Education (Mr Sam Galbraith):** On my right is John Elvidge, who is the head of the education department. On my left is Rhiona Bell, who is from the finance department. I will try to answer as many questions as possible, but the one thing that I do not do is micromanage my department. I am no longer an accountant. The officials will, therefore, make some contribution.

**The Convener:** I open up the debate to questions from the committee. Let us start by sticking to the general aims and objectives of the department.

**Mr Kenneth Macintosh (Eastwood) (Lab):** I would like to make a general point that my local authority and representatives of the Convention of Scottish Local Authorities have made to me on a number of occasions. There is a danger that when we try to measure what we are achieving in education, the measurements may deflect us from our ultimate aims and objectives. In other words, we should try to measure outcomes.

The example that is often quoted—not by my

local authority, but by others—is that of classroom assistants. Classroom assistants are a huge advantage in many classes and make a big difference when it comes to maintaining discipline and increasing the amount of attention that pupils get, but in some areas they are not as necessary as other measures that the money set aside for them could be used to fund.

How flexible is the system? How are you ensuring that the measures that are used to evaluate schools do not corrupt the outcomes of the education system? Our obsession with measuring things must not be allowed to undermine our aim of helping children develop as fully rounded individuals.

**Mr Galbraith:** I do not think that the very fact of measuring corrupts, although it all depends on the measurements that are used. I think that what you are getting at is the extent to which we should be ring-fencing—directing people to have a certain number of classroom assistants, for example—rather than allowing them to use the money for other purposes.

A key issue is how much should be determined centrally and how much freedom people should have at a local level. As you know, the vast majority of spending is locally determined. However, the Scottish Executive does give direction occasionally—through the excellence fund, for example, although even there some flexibility is built in. I do not think that we have come to firm conclusions on the issue of central direction versus local accountability and determination, and we may not have found the right balance, but I am sure that the committee will want to consider that in the future.

**Cathy Peattie (Falkirk East) (Lab):** Recently there have been a number of new initiatives. How is evaluation built in at the start of those? What commitment is there to reviewing initiatives and being open about the results?

**Mr Galbraith:** We are committed to complete transparency as regards the results of new initiatives. Evaluation can take place only once an initiative has been set up. You are asking whether, before we set up initiatives, we decide how to evaluate them. In the past, that has not always been the case, but I think that it is important. When we set something up, effectively as an experiment, we need to decide beforehand what outcomes we want. Increasingly, we are doing that. I have taken a special interest in evaluation and research into what we are doing. We have not done enough of that. We should not wait until we come to evaluate an initiative, perhaps a year or two into its life, before deciding how we should do that.

**Cathy Peattie:** Do you agree that if we wait until

the end of an initiative before we evaluate it, that is too late? That applies particularly to initiatives such as new community schools. Do you agree that we need to identify and include stakeholders within any evaluation, which cannot be done three or four years down the line?

**Mr Galbraith:** Yes. Good science determines what it is going to examine at the outset; it does not wait until later. If we do that, we will corrupt what we measure with prejudices that have built up. We need always to be clear on what we intend to do. Increasingly, that is what has happened. New community schools are about social inclusion, including other specialties and ensuring cross-boundary flow, and we will examine the outcomes in that area. When we introduce something, it will be mandatory for us to specify how and when we will assess it.

**Cathy Peattie:** Is it understood that that kind of approach costs money? Is money available for that?

**Mr Galbraith:** There are significant amounts in the budget for that. I will say something about the research that we commission. I had a meeting about this on Friday with the research community. Too often we are determining what is to be done and are telling the research community what we are looking for. I do not know whether that biases the research. The research community should be coming to us independently with ideas about how to conduct research.

**Lewis Macdonald (Aberdeen Central) (Lab):** You mentioned how important resources are for the evaluation process. Obviously the issue of resources is part of the process of setting the overall policy aims and objectives. However, in your evidence you have also identified the importance of external pressure groups, the general public and other agencies. How important a role do they play in determining policy aims and objectives?

**Mr Galbraith:** That is a good question. How often is one buffeted by external pressures? The answer is probably more than we would like sometimes. That is the nature of democracy. Others make their points of view known and one can be swayed or not by them. Sometimes we may wish that it were not so, but that is democracy and we must respond to it. On the Standards in Scotland's Schools etc Bill, people have brought issues to you and to us, and we have responded to them. That is appropriate and often people suggest very good ideas.

**The Convener:** Are there any more general questions before we move to ones specifically on education?

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** I want to return to the issue of

ring fencing and then ask about research. Something that bothers people about the education budget is that politicians can announce good news in the papers about how much has been allocated, for example, to child care or for teachers, but then the money does not get to the classroom. Folk find it difficult to accept that things are improving so greatly. Councils and others say that that is not happening where they are. What do we do about that? It is very difficult. We are making statements about increases in the number of teachers or classroom assistants, but folk are saying that, where they are, there are no more teachers or classroom assistants.

**Mr Galbraith:** I think that they will see the extra teachers and classroom assistants, but I understand the point that you make. We may say that the increased grant-aided expenditure allocation is 4.9 per cent, but everyone is talking about cuts, even in my authority. Once we have given money to local authorities, it is up to them what they do with it. I cannot control how they spend the money. That is partly why we have some specific grants, for example, through the excellence fund, which are directed at our priorities. It is up to local authorities to make their own choices.

**Ian Jenkins:** On research, you talked about target setting and the need for research. How does your need for research square with the change in the funding arrangements for the Scottish Council for Research in Education?

**Mr Galbraith:** SCRE still has a service level agreement for three years. There are members of the Scottish Executive on the board of SCRE and we give it directed funding. I think that it is an inappropriate way for research to be carried out. People should not be dependent on us telling them what to do. There is always a danger for the outcomes that that produces.

We will always want evaluation, and we want to have a whole host of organisations that can submit for that. In regard to research in education—I consider this issue from my own background—we need education to produce its own ideas, ask its own questions, do its own research and bring its ideas to us. There is an unhealthy relationship if we are always directing the research.

**Cathy Peattie:** On that relationship, I am interested in how you can get independent research unless there is a funding arrangement for an independent education research body in Scotland. Clearly, if you ask universities to conduct research, you identify the research that you want. Universities do not have the kind of independence that SCRE has.

14:15

**Mr Galbraith:** As you know, all colleges are parts of universities and have the same research ethic. There are always other sources for grants, such as the research councils or the Joseph Rowntree Foundation. It is incumbent on all the research departments to start to look for other places so that they are truly in charge of research. We will always want to fund research. We want them to come to us with research ideas and projects that they want to evaluate, so that we can award grants on that basis. We should not always tell them what they have to research. That is an unhealthy way of undertaking research and it is debilitating for standards.

**The Convener:** Nicola, is your question on that issue or is it about education?

**Nicola Sturgeon (Glasgow) (SNP):** Probably it is a bit of both.

**Mr Macintosh:** My question is on SCRE. I was told recently that the tendering process for research is an expensive business. It is more expensive than having an independent body such as SCRE. I do not know what the tendering process would be like for education research, but I have seen many other Scottish Executive tenders. Frankly, they are rather off-putting and they look expensive. Has the Scottish Executive worked out whether it will save money by using a tendering process rather than having an independent body?

**Mr Galbraith:** It is not a question of saving money, it is about getting the best quality of research, so I am slightly surprised by that question. Having spent a large part of my life seeking research funds, I know that it is time rather than the financial commitment that is costly. One can be up until 1 o'clock in the morning writing research proposals and applications. That does not cost money, unless you think that my working at 1 o'clock in the morning is money. I will investigate your question and find out whether there is a problem.

**Nicola Sturgeon:** I have several questions about the education budget and then some more general points. Feel free to interrupt me, convener, if you want to bring in anybody else.

The first question relates to level III figures in table 1.2 in "Investing in You" for central Government spending for schools. The figures show that £81.8 million will be spent in 2000-01 and £96.4 million in 2001-02. In the spending plans that were published last year—I do not think that you have them in front of you—under the children and education budget there is a line for schools. The figures are £41.3 million for this year and £45.3 million for next year. What is the reason for the difference between those two sets of figures?

**Mr Galbraith:** Things have been added to the budget since then. There is partnership money under the heading "Schools standards & improvements". I do not honestly know where the extra money comes from.

**Nicola Sturgeon:** The partnership money was £51 million over two years. Is it right to say that £7.5 million of that was spent in 1999-2000 on teachers' pay?

**Mr Galbraith:** No, it is not right to say that that was spent on teachers' pay. Money for that was taken from another part of the budget. We still have some of the £51 million left.

**Nicola Sturgeon:** Is all of that money included in the figures in "Investing in You"?

**Mr Galbraith:** Somewhere. It is mostly under the schools standards and improvements section.

**Nicola Sturgeon:** In the "Context" paragraph on the same table, is the capital modernisation fund for information and communications technology equipment capital grant or borrowing consent?

**Mr Galbraith:** Capital grant.

**Nicola Sturgeon:** Is new opportunities fund money for ICT training for teachers and school librarians included in the figures in table 1.2?

**Mr Galbraith:** No, it is not our responsibility. Those items are not contained within it.

**Nicola Sturgeon:** Are you able to be more specific on the school standards and improvement section as to the kind of things to which that money will be directed?

**Mr Galbraith:** Not yet.

**Nicola Sturgeon:** The excellence fund relates, to a large extent, to early intervention and things like that, including maths 2000.

**Mr Galbraith:** Quite a lot of things.

**Nicola Sturgeon:** Many of your targets in this section relate to raising attainment at standard grade and higher grade. What resources will be channelled to projects that will be specifically to raise attainment at those levels?

**Mr Galbraith:** Those resources are contained within the general overall budget related to increased teaching, the amount in higher still, the materials for higher still and the staff development for higher still. That is all contained within that budget.

**Nicola Sturgeon:** So curriculum development and so on is all contained within the school standards and improvements section.

**Mr Galbraith:** I do not think that you can isolate it. It starts from the earliest stage with early intervention and prevention of exclusion from

school. It works its way through to the money for higher still, which is a considerable spend, as you know, not only centrally but locally, and into teachers' continuing professional development. It also includes supporting parents and classroom assistants. All those matters are part of it.

**Nicola Sturgeon:** Is it possible to be any more specific?

**Mr Galbraith:** I am afraid not.

**Nicola Sturgeon:** Obviously money directed at this stage to early intervention is not going to work through in time to increase attainment in standard grade and higher grade passes by 2001. What is being targeted now to achieve the listed targets?

**Mr Galbraith:** It is all to do with the continuing professional development, increased number of teachers within it, higher still development and the money that is going into higher still. That is all part of a package that goes to raise standards and achieve a better outcome in those matters.

**Nicola Sturgeon:** On a more general issue, are the specific grants that you referred to included in the figure for grant-aided expenditure?

**Mr Galbraith:** The specific grants are in GAE.

**Nicola Sturgeon:** So those are included in the £2.7 billion GAE.

You previously said that £14 million of the excellence fund had been held back, that it had not yet been allocated, which strikes me as a bit strange. Councils have been told that they have £2.7 billion and are planning on that basis, yet you have held £14 million of it back. Have any decisions been taken about how that £14 million will be allocated?

**Mr Galbraith:** Not yet.

**Nicola Sturgeon:** What provision have you made for funding the McCrone committee's recommendations?

**Mr Galbraith:** I will wait and see what McCrone suggests before I come up with any answers to that.

**Nicola Sturgeon:** Whatever McCrone recommends will have a financial implication. Surely you are not saying that no provision has been made within your budget plans to fund the McCrone committee's recommendations?

**Mr Galbraith:** I am saying that I will wait until I see the McCrone report. I do not want anyone to go around making statements and snap judgments.

**Nicola Sturgeon:** I am not asking you to do so.

**Mr Galbraith:** I know that you are not. Can I just tell you that I am not going to say anything further

on that matter.

**Nicola Sturgeon:** I reserve the right to ask.

**Mr Galbraith:** That is fine. You can ask, but I reserve the right not to answer.

**Nicola Sturgeon:** I am not asking you to make predictions about what McCrone will or will not recommend. Presumably you do not know. Only *The Herald* seems to know those things.

Surely there must be some provision within your budget to fund, to whatever extent, the recommendations of the McCrone committee. Is that what the £14 million is being held back for?

**Mr Galbraith:** There is always provision within the budget for teachers' pay in the allocations.

As far as McCrone goes, I will wait until McCrone reports and I have had time to consider the report. I will then have something to say on it.

**Nicola Sturgeon:** You can surely tell us what your bottom line is. There must be an upper limit that you would be able to devote to funding the recommendations of McCrone. You do not have a limitless budget, Sam, so you must know in your own mind what your upper limit is.

**Mr Galbraith:** I say again that I will wait until McCrone reports, then I will make a statement.

**Nicola Sturgeon:** I will ask one final question. Can you tell us how the £89 million that Gordon Brown announced through the budget will be allocated?

**Mr Galbraith:** No, but I hope that I will be able to tell you fairly soon.

**Nicola Sturgeon:** Can you tell us how much of it will go directly to schools?

**Mr Galbraith:** I will tell you fairly soon, but I am not in a position to do so now.

**Nicola Sturgeon:** Is the reason that you cannot tell us now that that is the money that will be held back to fund the McCrone recommendations?

**Mr Galbraith:** I am not going to answer on McCrone again. You have had another shot at it.

I will make an announcement soon about how I am going to allocate that money. I am sorry that I cannot do so yet. Those matters take time. We must discuss them with COSLA—various people are involved in that. The position is that local authorities deliver. I must talk to them about that. I am sorry if you think that the announcement has been slightly tardy, but I want to get it right.

No matter what way you come back to me about McCrone, my position stands. I will not say anything until I see the McCrone report.

**Nicola Sturgeon:** Just to put on record that—



**The Convener:** I will move on. I will let Nicola Sturgeon back in if she still feels that she has a question. Other members are waiting to ask questions.

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** Before I ask a question, I want to put this on record. I may be Parliament's Mr Nice Guy, but I think that Nicola Sturgeon has stretched it a bit. We always want to get a shot at the minister and I enjoy her Perry Mason style cross-examining, but I do not think that it is entirely on.

**Nicola Sturgeon:** I want to raise a point of order.

**The Convener:** I do not want to get into an argument about this. Can we discuss it later?

**Nicola Sturgeon:** I have a point of order.

**Mr Stone:** I would like to ask the minister about community schools.

**The Convener:** Sorry, Jamie, I will have to stop you. There is a point of order.

**Nicola Sturgeon:** We are talking about budget projections for the next year. There is a major item that is likely to have to be funded from the budget that is available for the next year. I want the convener's guidance on whether it is reasonable to ask questions about where that money will come from.

**The Convener:** I allowed you an opportunity to ask questions. I think that you would agree with that. Jamie Stone is entitled to his view, whether or not it is mine. You have had the opportunity to ask questions. I have indicated that I will come back to you after I have let other people in.

**Mr Stone:** More of my time is being eaten into, convener, but I will make my point with a smile on my face to Ms Sturgeon.

I will question the minister about community schools. I will not ask him such long questions and I hope that he will give me fuller replies, despite the fact that he recently mistook me for Mr Jamie McGrigor.

**Mr Galbraith:** Sorry about that. We all make mistakes.

**Mr Stone:** As you know, minister, I have asked you about community schools recently. That concept has enormous appeal to me, because I see it is a way of doing up schools that need capital expenditure. I think of schools in places such as Wick, Thurso, Dingwall and Tain in my own constituency. We all have such schools.

The minister talked earlier about evaluating what he has done so far. I ask you to consider it in this way: you will have different models coming

forward for community schools as the initial pilot schemes roll out. How will you evaluate which ones are the most effective models? Arising from that, how do you propose to, shall we say, roll the scheme forward to local authorities and other schools, to sell the concept once you have evaluated it?

**Mr Galbraith:** There are three tranches in rolling this forward. The next one will be coming soon, before we get any evaluation.

John, when do we expect an evaluation of the first tranche?

**John Elvidge (Scottish Executive Education Department):** The evaluation will take some time. We have an evaluation contract, but it will take some time for the schools to settle down. Most of the time spent so far has been on development of the contents. The evaluation will take account of how the schools work in practice, rather than an attempt to make a judgment about the quality of the approaches in isolation.

**Mr Galbraith:** We do not yet have any significant evaluation on which to base our next judgment. We have three tranches and we are trying to allocate funding based on the same criteria as we did on the previous occasions. I hope to make a second announcement on that. When the third one comes around in April of next year, we will see where we are with any form of evaluation by then.

This is part of the excellence fund programme. What we want to do after that with this sort of initiative will depend on what the evaluation is of these new community schools. I often say that I look forward to the day when every school is a new community school in that they have the concept of involving others within them. Before we take the next step after the initial three tranches, we will certainly have to consider evaluation.

**Mr Stone:** All right. I hear what you say. Given the success of Balerno, Ullapool and Culloden in pulling together services, making money go further and being efficient, what consideration would you and your department give to extending a similar concept to the primary sector? It seems to me that in rural Scotland—particularly areas such as the Borders and the Highlands—there is some mileage in combining a number of council services under one roof.

**Mr Galbraith:** There are a number of primary projects in the new community schools.

**Mr Stone:** There are.

**Mr Galbraith:** I was at one in the Borders yesterday and there are several others throughout the country. This is an initiative for primary schools as well as secondary schools and it seems to work. The school that I visited yesterday, at

Burnfoot, was quite exceptional.

14:30

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** I return to the issue of the £89 million. I accept that you intend to make an announcement about it later. Is it being delayed because you are trying to agree the mechanism for distributing the money rather than where it should go?

**Mr Galbraith:** No, the mechanism is not a problem—we give the money to local authorities, which distribute it for us. We are trying to get the right criteria for the allocation.

**Mr Monteith:** Can you assure the committee that you will seek to ensure that there is no top-slicing of the funds by local authorities?

**Mr Galbraith:** That is part of the agreement.

**Mr Monteith:** Thank you.

Just the other day there was an announcement about the possible costs of school repairs. How much leeway is there not to find the full amount in one year, but to have a five-year or 10-year plan to carry out the repairs that are required?

**Mr Galbraith:** As Mr Monteith knows, this is a huge issue that is not new. The sum of £1.3 billion was made available some time ago. At issue is how we address repairs. The five-year plan in the new deal was designed to provide schools with a settled amount for emergency—wind-and-water-type—repairs. We are considering how best to take this forward in the longer term. It has taken us a long time to get into this situation and it will take us a while to move forward. I am considering how we can make a contribution to repairs from the £89 million, but we will need a long-term plan.

This is not just about investing money, but about rationalising stock, as capital consent is dependent on the number of classes. There can be difficulties if a school has many more classrooms than it has classes. We need to consider a number of issues—capital consent, specific grants and public-private partnership—and to come up with a long-term solution. As the committee knows, Glasgow City Council intends either to rebuild or refurbish all its secondary schools within about three years.

**Fiona McLeod (West of Scotland) (SNP):** I would like to take you through a few individual points on the budget that concerned me. Your objective is to bring down absence at primary and secondary schools to 18 half days and 36 half days per pupil respectively. Where in the budget table does the money for that appear?

**Mr Galbraith:** It comes from the budget for such things as supporting parents—which is part of getting them involved—alternatives to exclusion

and support for teachers.

**Fiona McLeod:** So you have not set aside specific sums to achieve the targets for reducing absences.

**Mr Galbraith:** No, we have not.

**Fiona McLeod:** The context section of table 1.2 refers to the grant to the Scottish Consultative Council on the Curriculum, but there is no mention of the grant to the Scottish Council for Educational Technology. I understand that the two bodies are going to merge. Does that mean that they are both receiving only the grant that SCCC is allowed?

**Mr Galbraith:** The SCET grant and that to the SCCC is contained in the second row of table 1.2.

**The Convener:** Can you tell us how much of that £26.4 million goes to SCET?

**Rhiona Bell (Scottish Executive Finance Department):** SCET receives £1.4 million.

**Fiona McLeod:** That is for this year. Obviously, with the merger coming up, you are not projecting forward.

**Mr Galbraith:** It is projected forward.

**Fiona McLeod:** So SCET will get £1.4 million next year as well?

**Mr Galbraith:** Yes.

**Fiona McLeod:** When the two bodies are merged, will they have a total budget of £2.8 million?

**Mr Galbraith:** Yes.

**Fiona McLeod:** Thank you.

**Mr Macintosh:** I have a more general point on the flexibility in the budget. If we take table 1.7 as an example, we are setting a target of providing places for all three-year-olds—whose parents want them to have places—which is demand led. The Executive has a budget forecast of £112.8 million and the overall budget is £140.7 million. If the demand is not that high, I understand that the money goes back in and the department can take advantage of year-end flexibility. If demand exceeds the money that has been set aside, is that figure the limit or is there flexibility to increase the amount?

**Mr Galbraith:** We have got it right and we have managed to balance that almost completely. I am not sure how we managed to get it so right. Do you know, John?

**John Elvidge:** No.

**Mr Galbraith:** I imagine that we have a certain amount of variability, but in this case we got it just right for the demand.

Do not forget that for three-year-olds the

demand is partly determined by the number of places, which are increased each year. In that way we are controlling it. We are on course to meet those targets.

**Mr Macintosh:** I am extremely impressed at the accuracy of your forecast.

**Mr Galbraith:** That accuracy is due to the fact that we predetermine the demand by giving a certain amount of money to make more facilities available. In many ways, that is a fake regulation of the demand.

**Mr Macintosh:** Yes, because local authorities can predict that demand. However, up to now it has been a question of funding nursery places in the voluntary and private sectors and bringing those up to scratch. If demand keeps increasing and we have to build new nurseries and so stimulate demand, is there a limit on the amount of money that can be drawn upon to meet that demand?

**Mr Galbraith:** The limit is the amount that it will take us to meet our commitment to provide a place for every three or four-year-old who needs it. We shall fulfil that commitment. We have achieved our target for four-year-olds, we are at 60 per cent for three-year-olds and we expect to hit our target for 2002. There is a finite demand, which we are budgeted to meet.

**Mr Macintosh:** At the moment, the number of four-year-olds taking advantage of places is very high. The take-up by three-year-olds might remain at 60 per cent. I want to ensure that money will be available if it increases. The forecasts are for two years in advance. I want to ensure that the forecasts are not limits, but simply estimates that can go up as well as down.

**Mr Galbraith:** They are plans.

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** On the same lines, consider special educational needs in table 1.12. In a sense you do not need the details. Last week, when we were debating the matter, I said that £12 million sounded like a lot of money, but did not know whether it was enough. How do you know that it is enough? One cannot really know how much change will be necessary to the structure of individual schools—how many extra assistants will be needed, for example. How do you decide three-year expenditure plans?

**Mr Galbraith:** The special educational needs row in table 1.12 does not show SEN funding; it shows expenditure for development and minor capital alterations. There are packets of SEN funding elsewhere in the chapter; for example, the GAE also contains money for SEN. Furthermore, the pupil support row in table 1.2 includes special educational needs funding for schools such as

Donaldsons. As with anything, we make predictions and judgments and try to get them as right as we can.

**Ian Jenkins:** That goes back to Kenneth Macintosh's point that the figures are not set in stone. If, for example, you make promises about special educational needs which then cost £6 million, will they not happen?

**Mr Galbraith:** As the inclusion row of table 1.13 makes clear, we have invested an extra £12 million over two years in special educational needs to allow as much mainstreaming as possible. All we can do is make the best possible predictions and allocate the funds. If more money is needed, we find out whether we can get it from somewhere else; if we do not spend as much as we predicted, that means that we have saved some money. For local authorities, the benefit of flexibility is that they can vary amounts and push their budgets around; we try the same centrally, even with the smaller amounts that we have. The whole process is dynamic. That said, we expect that the £6 million each year for mainstreaming special educational needs will be used.

**Mr Macintosh:** I am sorry to harp on about this, but special educational needs is probably a better example of what I was talking about than pre-school education. Although it will be difficult to estimate demand, most of us could also predict that demand will probably increase exponentially. These services are demand led. If a local authority creates and advertises a service that makes various provisions for special educational needs, the take-up could be phenomenal—and phenomenally expensive. Are the parts of the budget that allocate money for SEN, nursery provision and so on capped, or, because they are demand led, can people keep drawing on them until the demand is satisfied?

**Mr Galbraith:** Such demand has an upper limit. For example, on nursery places, we can accurately predict the upper limit of the number of three-year-olds at any one time and budget to fund for that eventuality. As we have a commitment to provide nursery places, we need to budget for that. The same applies to special educational needs. We do not have to worry about the bottomless pit that some health service expenditure has to fill; we have finite levels. If we have a commitment to reach certain levels, we can budget accordingly.

**The Convener:** Although I am anxious for the meeting not to turn into "The Ian and Ken Show", Ian Jenkins can have another supplementary.

**Ian Jenkins:** Although I am happy to accept your comment that the budget is not absolutely rigid, the Standards in Scotland's Schools etc Bill says that the local authority should mainstream

special educational needs provision except where exceptional expenditure is incurred. If the money is not available in the first place, does there not come a point when the council claims that such provision is exceptional expenditure?

**Mr Galbraith:** That has always been a slight area of controversy. As you know, the legislation has to contain some limit. I think councils are reasonable and honest. If people are unhappy, they have recourse to the law. That said, I have argued about the meaning of "reasonable" in many committees.

**Nicola Sturgeon:** In the section about the new deal for schools, the aim is

"To improve the standard of school buildings".

Do you have any statistical target for the number of school buildings that will be improved by that money?

**Mr Galbraith:** No. That money was allocated for local authorities to make their own judgments about that.

**Nicola Sturgeon:** Do you have any long-term target for bringing school buildings up to scratch?

**Mr Galbraith:** We are committed to 100 new schools and major developments by the end of the four years of government.

14:45

**Nicola Sturgeon:** You are not prepared to set a time scale for bringing all Scotland's schools up to scratch.

**Mr Galbraith:** No. We have made a start by committing ourselves to 100 new schools and major developments. That is a fairly significant commitment.

**Nicola Sturgeon:** In the answers that were given to our written questions, you say that central Government support for PPPs is not included in table 1.6, which is fair enough. How much does the Government spend on supporting PPPs for schools? Where does that figure appear in the budget?

**Mr Galbraith:** I do not know that figure off the top of my head. I will write to you with it. It is about the level-playing-field support that PPPs receive. We pick up the capital consents for schools and pay the interest on that, but that would not happen for PPPs. I will find out the figure for level-playing-field support for PPPs.

**Nicola Sturgeon:** Does it appear somewhere in the budget figures?

**Mr Galbraith:** I will check. I do not know the answer to that question.

**Nicola Sturgeon:** I have one more question.

When will you know the end-year flexibility for the past financial year?

**John Elvidge:** The books for the past financial year close on 29 May.

**Nicola Sturgeon:** How will the decisions on the allocation of that money be made?

**Mr Galbraith:** With care.

**Nicola Sturgeon:** Will all the money be spent within the education department, or will it be split between departments?

**Mr Galbraith:** There are two types of end-year flexibility. There is end-year flexibility that concerns a slippage that is carried because, otherwise, it would be extracted from the budget. We are discussing in the Executive how best to handle the other stuff that has slipped.

**Nicola Sturgeon:** Apart from end-year flexibility, where else in the education department's budget is there flexibility to fund things that are not budgeted for this year or next year, which may crop up?

**Mr Galbraith:** Is that the McCrone question again?

**Nicola Sturgeon:** No. It is a general question.

**Mr Galbraith:** I am waiting for that question to return in disguise.

There is always flexibility in the starting allocations and it mostly comes down to end-year flexibility. We have some unallocated funds. We adopt a policy of trying to allocate money at the start, so that everyone knows what they will receive from the budget, rather than holding funds back, which is not good practice. In that way, we limit our flexibility, but we do so for the benefit of all the folk who are delivering the services. It is important that they know their allocation at the start; that limits our flexibility. However, there are some unallocated funds.

**Nicola Sturgeon:** You say that there are some unallocated funds. We have already identified £14 million from the excellence fund. Can you tell us where other unallocated funds exist, under specific headings in this budget?

**Mr Galbraith:** They are in table 1.2, on "School standards & improvements".

**Nicola Sturgeon:** How much of that is unallocated?

**Mr Galbraith:** In 2000-01 the figure is £9 million. There is some further unallocated money in 2001-02.

**Nicola Sturgeon:** It is the £14 million plus the £9 million under "School standards & improvements".

**Mr Galbraith:** Yes.

**Nicola Sturgeon:** Are there any other unallocated funds in the education department's budget?

**Mr Galbraith:** Not that I am aware of.

**Nicola Sturgeon:** So we are talking about just over £20 million for this year.

**Mr Galbraith:** If that is how you have counted it up, that must be right.

**Nicola Sturgeon:** Plus whatever there is for end-year flexibility.

**Mr Galbraith:** Yes.

**The Convener:** Before we move on, I want to ask a question. One of the issues that has been commented on—if I can put it like that—is local authorities' allocations for education spending and the fact that some of those allocations have been ring-fenced. Do you foresee any changes to that over the next year?

**Mr Galbraith:** There is some debate on ring fencing. Local authorities do not like ring fencing at all, as it cuts down their flexibility. I have attended several meetings in my constituency at which it was demanded that the local authority's education allocation be ring-fenced because the authority is unusual in consistently spending less than its allocation.

There will always be ring fencing and aid-specific grants when there are specific aims that we want to achieve. That is what the excellence fund is; I do not think that that situation will change. The committee could have a useful debate on the balance between ring fencing and flexibility.

**The Convener:** We will move on to discuss children and young people and the provision for them in the budget papers. I will ask a quick question while members consider what questions they want to ask.

Minister, has there been improved co-ordination since the children and young people group was established?

**Mr Galbraith:** Co-ordination in making decisions and considering issues has certainly improved. Those outside the Executive have also noticed an improvement. Many local authorities—Stirling Council comes to mind right away—are well down the road of linking up services. We used to have social work in one basket, the children's reporter in another and child care services in yet another, but now they are all together. Our youth policy covers those areas. The establishment of the group has helped to draw those issues together.

One of the difficulties children's reporters can

face is that of the problems social services have with placements. We would like to think that we are drawing them together. Kids who face the children's panel are often looked-after children, who have their own problems. Rather than having different departments dealing with those problems separately, we now try to pull together. I hope that the co-ordination is a bit better as a result. While bearing in mind what some local authorities have done, we have taken a lead; I hope that co-ordination will spread out to the remaining local authorities.

**The Convener:** An issue that is sometimes raised is that of money being made available from one part of the budget for a children's service in one area, but not being made available for the same service in another area. Do such problems remain, or has the establishment of the group dealt with them?

**Mr Galbraith:** There will always be problems, which can be highlighted by the difficulties facing the children's panel. While I will give more money to the children's panel, social work services do not have the means to fund the placements that the members of the children's panel want, which frustrates people and is bad for everyone concerned. We are trying to strike the right balance and I hope that, with people talking to one another, we can deal with those problems.

One area that we will address is that of increased disposals from the children's panel. A time intervals group has been considering the time it takes all the various parts of the children's panel system, such as police, social work and education authorities, to prepare reports, to try to get people to do that work more quickly. That co-ordination of services, which pulls together all departments—not just my department—has led to a different culture that keeps the child, rather than the service providers or the structure itself at the forefront: so we do not say, "Well, my department can't do it," but there is one approach.

**Fiona McLeod:** Can I draw your attention to table 1.7? There are quite dramatic increases in the pre-school and child care line for—

**Mr Galbraith:** Sorry—which table?

**Fiona McLeod:** I refer to table 1.7 on page 15, where there are quite dramatic increases in the money for pre-school and child care. We have heard much about the £24 million from the new opportunities fund for the provision of 100,000 child care places by 2002. Is that money broken down—

**Mr Galbraith:** No. The new opportunities fund money is not our money—we have no control over it and no responsibility for it.

**Fiona McLeod:** So you do not include that

funding in your budget?

**Mr Galbraith:** We have no control or influence over lottery funding and how it is spent, other than the directions that we give to the distributing bodies. That funding is not contained within our budget.

**Fiona McLeod:** If you do not control funding, you do not include it in your budget lines?

**Mr Galbraith:** That is correct.

**Fiona McLeod:** I cannot identify where sure start, about which we have heard much, fits in. Where does sure start appear in the budget?

**Mr Galbraith:** We will find that information quickly for you.

**John Elvidge:** Sure start is included in the pre-school and child care line.

**Fiona McLeod:** Can you break down the £140.8 million that is planned for this year, to tell us what is being spent on sure start?

**Mr Galbraith:** Off the top of my head, I think expenditure on sure start will be £14 million. It went up from £9 million last year to £14 million this year. Next year it will rise to £19 million.

**Fiona McLeod:** Can I take you back off the top of your head to last year? How much was that figure?

**Mr Galbraith:** I think it was £9 million. I think it went £9 million, £14 million, £19 million. Do we have the figures?

**Rhiona Bell:** I do not have them broken down to that level.

**Mr Galbraith:** Nevertheless, I remember the debate that took place then.

**Fiona McLeod:** Does all the sure start money come from your budget and not from the lottery?

**Mr Galbraith:** It is all from my budget.

**Fiona McLeod:** You mentioned children's hearings, which are shown in table 1.11. There are historic figures but none for the future. Is there a reason for that?

**Mr Galbraith:** What historic figures?

**Fiona McLeod:** Table 1.11 on page 19 gives us only the figures for 1997-98, 1998-99 and 1999-2000.

**Mr Galbraith:** I do not know why.

**Fiona McLeod:** I take it that you are going to spend money on the children's hearings system.

**Mr Galbraith:** Absolutely. I have no idea why there are no figures for future spending. I shall look into it.

**Fiona McLeod:** You have not forgotten the children's hearings system?

**Mr Galbraith:** No.

**The Convener:** Let us leave that on the table for the moment.

**Mr Galbraith:** We can find out.

**Fiona McLeod:** We would like to know.

**Karen Gillon (Clydesdale) (Lab):** I want to ask about Community Learning Scotland. Given the increase in problems with adult literacy and numeracy, do you think that the focus on young people in the education system has been at the expense of community development of lifelong learning?

**Mr Galbraith:** I wish I knew the answer to that question. When I looked at what some of the money was spent on, I wondered whether we might usefully review who gets grants. That is an area that requires further examination.

**Nicola Sturgeon:** Under table 1.11 can be found the objective:

"Develop an Action Programme for Youth".

How much money will be devoted to that?

**Mr Galbraith:** I do not know how much will be devoted to that. Sorry.

**Fiona McLeod:** I think that you could tell her, minister, because you told me in an answer to one of my questions.

**Mr Galbraith:** Oh, great. Well, that is splendid. There you are; ask your colleague.

**The Convener:** Do you mean that you do not remember it?

**Mr Galbraith:** Ask your colleague. How much was it? Was it a lot?

**Fiona McLeod:** I think that it was £70,000.

**Mr Galbraith:** Good.

**Fiona McLeod:** That did not seem very much, because it included funding for the youth summit in Motherwell. I think that bringing 1,000 kids together would use up the whole of your £70,000 budget. That is why it sticks in my mind. Perhaps that is another question on which you could come back to us.

**Nicola Sturgeon:** Under the same heading are two targets. The first is:

"Ensure that every local authority prepares a CLS."

I assume that that stands for community learning strategy. The second is:

"Implement review of community education training."

Although those targets are included under your

level III figures, surely they are costs that will be borne by local authorities rather than by central Government.

**Mr Galbraith:** We make specific grants for community learning services.

**Nicola Sturgeon:** Do you know how much will be allocated to those targets?

**Mr Galbraith:** It will be £0.6 million, £0.7 million and £0.7 million.

**Nicola Sturgeon:** Will all that money go towards those two targets?

**Mr Galbraith:** In part, yes.

**The Convener:** You made an announcement on child care last week. Are resources set aside to fund the framework for the child care strategy?

**Mr Galbraith:** Not much in the way of resources is needed for the regulatory system, other than those required for setting up the social services care commission. A lot of that will involve transferring and pulling into one place services that are already provided by local authorities. Big resources are not involved in that. The big resources will be needed for training and educating child care workers.

**Fiona McLeod:** I asked you last week about the working group on the Scottish Criminal Records Office checks. When that group produces its findings and establishes a cost for SCRO checks, that will have to be borne within the regulation of child care. You are answering the convener by saying that there are no cost implications, but there will be cost implications.

**Mr Galbraith:** Last week, we were talking about bodies that get public money. However, some voluntary organisations get no public funding. Cullen talked about that and the issue of checking on the people who are involved in those bodies. That is a slightly different issue and it has funding implications for the scouts and the Boys' Brigade. That is what Jackie Baillie's group is discussing.

15:00

**Fiona McLeod:** Depending on the working group's recommendations, the regulations produced last week could have funding implications for bodies such as local authorities, nurseries and after-school care organisations that work in partnership with a local authority.

**Mr Galbraith:** Local authorities and publicly funded bodies are already required to have the checks that we are talking about. Cullen asked whether the checks should be extended to other bodies. If that happened, those bodies would have to pay.

**Fiona McLeod:** The Cullen report was produced

before the present partnership agreements were in use. That means that there will now be implications for others.

**Mr Galbraith:** I am not sure that the situation has changed that much, but you are right that there will be implications for others. It is important not to confuse the Cullen recommendations with the regulation of local authorities, statutory bodies and bodies to which public money is given. The issues are related but separate.

**The Convener:** We will move on to deal with culture and sport.

**Cathy Peattie:** I am interested in the cultural strategies and the relevant consultation. What provisions have been made for the strategy's implementation?

**Mr Galbraith:** There will be funding implications and we will have to put some money aside for that. I hope that we will launch the strategy reasonably soon—I do not want to give a specific date.

**The Convener:** Do you think that it will be this side of the summer recess?

**Mr Galbraith:** No.

**Mr Stone:** I want to talk about libraries and museums. As you and Rhona Brankin will admit, minister, the situation is patchy throughout Scotland—some museums are great, some not so. The Executive has a role in education in setting standards and in examining those standards. Could the Executive play the same role in the museums and libraries avenue, as it were? Might you put the boots on and go into that avenue more heavily?

**Mr Galbraith:** Me? Put the boots on? A mild-mannered, easy-going chap like myself? Certainly not.

It is an interesting suggestion, but local authorities would criticise us for regulating them. A balance must be struck, similar to that for education. Am I going to inspect their libraries and museums when they have the responsibility for funding them? You might want to talk to the local authorities about that, Jamie.

**Mr Stone:** Thanks for playing the ball back to me, minister. Andrew Carnegie saw it as an ideal that there should be a set standard for libraries throughout Scotland. I suggest to you, minister, that the fact that the standard of libraries varies is a problem.

**Mr Galbraith:** I am interested in your suggestion. You will understand if I do not rush into anything at this stage. I think that you should pursue that with local authorities.

**Mr Stone:** You think that I should?

**Mr Galbraith:** Yes.

**Mr Stone:** Do you accept that it is worthy of consideration?

**Mr Galbraith:** I will give it a bit of thought.

**Lewis Macdonald:** I want to ask the minister about table 1.18, which indicates the spend on culture, sport, Gaelic and films. Does the line for sport include the funding for Hampden Park?

**Mr Galbraith:** Yes.

**Lewis Macdonald:** I know that later there will be further discussion of a boxing match that is scheduled for Hampden Park. Recently I wrote to you about the Scottish cup final on Saturday and the allocation of tickets for that match. That raises a question—not only for Aberdeen supporters, but for all of us—about the way in which the national stadium operates and uses public money. Do you have a view on the accountability of Hampden, in relation to the types of event that it chooses to stage and the way in which it allocates tickets for those events?

**Mr Galbraith:** I think that I am getting drawn into the committee's next discussion, which I should avoid, as I am here to discuss the budget. The money was given to National Stadium plc and Queen's Park, and the deal was that the Scottish Football Association would lease and run Hampden. I will not go any further than that, as I do not want to interfere with your next discussion.

**Lewis Macdonald:** I would not ask you to interfere with a committee discussion, but Hampden raises wider questions about the use of public funds by such companies. There may be a budgetary angle to that.

**Mr Galbraith:** You are asking whether, if we put public money into something, we should always lay down conditions for how it is used. In the case of Hampden, we have done that. That is one of the reasons for saving it—if it went bust all the conditions regarding community use of the stadium would be lost. In the past, we have not seen fit to impose any other conditions.

**Mr Monteith:** In your reply to a previous question of mine, you explained that you did not think it possible—understandably—to invest money in museums that are independently run and funded through local authorities, as opposed to the national museums, which are run by the Scottish Executive. Is there any leeway within the budget, as part of the cultural strategy, for considering whether some of those independent museums might better be funded within a national rather than a local structure? Some of the museums are considered to be national, although they are funded primarily by local authorities.

**Mr Galbraith:** As Brian Monteith knows, this is a

big issue. There is always scope for bringing museums under national control, but the funding implications of that would be cuts to local authority budgets for museums, which would mean taking away local authority functions. It is not possible to solve museums' financial problems simply by designating them as national museums, as I am sure Brian Monteith is aware—although sometimes when I hear this issue debated I think that there are many people who believe that, if we call something a national museum, the funding issue will be resolved. The problem is not the name of the organisation, but the fact that there is no money.

There are different kinds of museum, and some are of particular importance. The problem is that there are 160 independent museums in Scotland, many of which have financial difficulties. If we offer funding to one, more and more will ask for it. Many of the museums were set up with totally unrealistic expectations, and they cannot expect us to fund them. I do not see any short-term solution to this problem. In Parliament, Brian Monteith asked me about the Scottish Mining Museum. Last year, we invested £100,000 in that museum, subject to certain conditions, but this year it is back for another £200,000. The same thing will happen next year. If we took the museum under our control, we would need to find the money from somewhere else, as we simply do not have it. I do not think that there is an easy solution to this problem.

**Karen Gillon:** What role do you think the national review group will have in taking forward the "Sport 21" agenda and in examining future resource allocation?

**Mr Galbraith:** "Sport 21" was a seminal document. It is about the involvement of youth and social inclusion, and we are currently reviewing it. I think that, under its new chairman, the Sports Council will be very effective in determining just how much the strategy has achieved and how much further forward it needs to be taken. I am optimistic about sport in this country and about what the Sports Council and the Scottish Institute of Sport are doing.

**Karen Gillon:** Are you able to make links, or is there a mechanism for doing so, between educational achievement in sport and the role that sport can play in raising educational achievement?

**Mr Galbraith:** We are considering that at the moment. Sport has many values: its health value is crucial and another aspect is the fun of it. Sport gives a lot of people a sense of identity and purpose, makes them feel part of the community, keeps them together and improves their achievement. It is difficult to provide figures to support that idea, which is why it is only a hypothesis, but I hope that it will be borne out.



**Mr Macintosh:** Fiona McLeod mentioned the way in which we account for lottery money, which is not under your control or our control. However, that money will be used to achieve the objectives that the Executive will set. For example, the Executive is investing £1 million in the football academy, with £3 million coming from lottery money. What systems are in place to ensure that the money is properly accounted for and spent on the objectives that the Parliament sets, given that the money is not the Parliament's?

15:12

*Meeting adjourned.*

**Mr Galbraith:** We issue instructions to the lottery money distributing bodies. When we came to power, we prioritised social inclusion in the distribution of that money. That has had a significant effect: 20 per cent of the sports lottery fund goes to socially excluded areas. That is constantly monitored by the grant-giving body, which compiles a report, so that we know exactly—as you can see from the figures that I have produced—how the Executive's objectives are being met.

**Fiona McLeod:** I have some factual information for Jamie Stone and the minister, who discussed standards in public libraries. The Convention of Scottish Local Authorities has issued a set of standards for public library services, which may be useful in any discussion on the funding of public libraries and whether they are meeting their targets.

The minister's objective is to establish a Scottish football academy. Table 1.18 shows that the planned expenditure for sport this year is £10.3 million. Does that include the money that has yet to be allocated?

**Mr Galbraith:** Yes.

**Fiona McLeod:** You say that the funding would be agreed early in 2000-01. Do you have any idea when that might be? The figure of £1 million is constantly bandied about.

**Mr Galbraith:** We are going to allocate £1 million from within the sportscotland budget.

**Fiona McLeod:** Would you consider allocating more?

**Mr Galbraith:** No. We have stated that our allocation will be £1 million.

**Fiona McLeod:** The budget document states:

"Funding package to be considered and agreed early in 2000/01."

**Mr Galbraith:** Yes. The funding package will be considered in relation to other contributions, but there will be no more from our budget.

**The Convener:** Thank you, minister, for answering our questions.

We will take a couple of minutes for a break.

15:17

*On resuming—*

## Public Petitions

**The Convener:** Item 3 on the agenda is consideration of public petitions. We will consider these in the order shown on the committee paper. The first petition, PE171, concerns the proposed closure of Glenrinnies school. Margaret Ewing has joined us this afternoon to say a few words on the petition.

**Mrs Margaret Ewing (Moray) (SNP):** Thank you, convener, for the invitation to address the committee. I shall be brief.

It is with a great deal of poignancy that I speak today, as Faye Buckley—one of the pupils of the school, aged 10—was sadly killed in a road accident yesterday. I am sure that the whole committee will join me in sending condolences and love to her parents and the community as a whole.

The petition asks for a deferment of the decision to close Glenrinnies school and other rural schools. One of the most important spheres of policy that has been devolved to the Parliament is education, but I will not offer any clichés in this short presentation.

Glenrinnies school is not a Victorian building that needs a huge outlay of money for repair and maintenance and it certainly will not use any of the £1.3 billion that was referred to in news broadcasts this morning. The school complies with all electricity, fire and health and safety regulations. It opened in 1958 and has served the community since. It is the only focal point and the sole public facility in the area. Implementation of the proposals to close the school will mean a journey of 16 miles a day to schools at either Mortlach or Glenlivet. Experience in those airts tells me that, each winter, some 20 days of school could be lost. Children would also lose out on the facilities and on the social aspect of their education.

I raised the matter in a short debate on 4 May subsequent to receipt of the petition by the Public Petitions Committee. I know that the parents in the community respect greatly the fact that their voices are being listened to. More than anything, however, we want to ensure that the issues that they have raised in connection with consultation procedures, the report that is expected from Jamie Stone and overall policy decisions by the Executive will mean that no early decision is reached. We are asking that the proposal be put on hold and that we be given time.

**The Convener:** Thank you. I am sure that

committee members will wish to extend their condolences to the young girl's family and friends and to the community as a whole. It is a very distressing situation. Thank you for your attendance at the committee.

Given the similarity of circumstances, I intend to consider petition PE175 on the proposed closure of Toward Primary School at the same time. I invite George Lyon to speak first.

**George Lyon (Argyll and Bute) (LD):** I would like to speak in support of petition PE175, which challenges the criteria and principles used by Argyll and Bute Council in bringing forward their rural school closure programme. Toward is being used as an example, but six schools are affected by the programme of threatened closures, some for the second time in three years. Those are the schools at Drumlemble, Newton, Bridge of Orchy, Glassary, Ulva and Toward. Drumlemble school has been threatened with closure twice. Newton school on Islay has been threatened with closure twice before and the new threat is causing great distress and concern to many of the parents who successfully fought the battle to keep the school open on the previous two occasions. Neil Kay's petition challenges the criteria and principles that the council uses, not the decision to pick specific schools.

Given that the timetable is tight—the council intends to make a final decision on 6 June—I ask the committee to examine closely the principles that are being applied by Argyll and Bute Council. I understand that the committee is conducting an investigation led by Jamie Stone on closures in another part of Scotland. If the committee is going to examine the proposed closure of Toward school, it must do so soon because of the deadlines that we are up against. If the committee were to ask the council to suspend its decision pending an investigation, many parents would be eternally grateful. I strongly support Neil Kay's petition and ask that the committee considers it carefully.

**The Convener:** Duncan Hamilton is also here to speak about the petition.

**Mr Duncan Hamilton (Highlands and Islands) (SNP):** George Lyon has covered many of the points that must be made, but the petitioners have asked that the petition be viewed as a coherent effort on behalf of all the threatened schools. Neil Kay has asked that the petition be treated as an indicative case by the Parliament.

I am not sure whether the date that George Lyon gave for the decision to be made is correct, but the council is pushing for a date in June. Although it must be tempting for the committee to view the matter as part of a wider issue—I know that Jamie Stone is preparing a report—I urge members to

consider it as a priority and to conduct a separate and independent inquiry with an early resolution, not least because the parents and children involved need an early decision. I draw the committee's attention to the fact that the council has said in previous correspondence that it would await the outcome of the decision of the parliamentary committee. That does it great credit, but our response should be to push things to fruition at an early stage.

I see from the committee papers for this meeting that it was suggested that the committee did not really have a role in telling the education authorities at local level how to go forward. I challenge that view and suggest that there is a precedent, in Westminster and in this Parliament, for telling local bodies the views of committees in such cases. The Health and Community Care Committee has looked at health trusts, in Tayside and in Glasgow, and the Stobhill hospital inquiry set a precedent for a specific case to be taken on by the Parliament. Although I may not be the keenest member round this table to follow examples from Westminster, the Westminster Parliament and the Government south of the border have said that they will intervene more directly in local authority decisions on rural schools. I hope that, bearing in mind those precedents, the committee will take the matter forward.

**The Convener:** Before I bring in Nicola Sturgeon, I shall ask Jamie Stone to say a few words about the progress of his inquiry.

**Mr Stone:** I shall certainly do so, and I would also like the opportunity to respond to any questions from members.

**The Convener:** Certainly.

**Mr Stone:** The committee decided that rural schools closures was an issue that concerned us and I was designated as the one-man representative of the committee. For the past few months, I have been going out to Dumfries and Galloway, the Borders, the Highlands and Moray. Those are the four local authority areas that Gillian Baxendine recommended as being within our budget. We had a problem with Moray Council, which refused—not once, not twice but thrice—to see me. Last week, we discovered that the logjam had been broken. I see no reason why we should not see people from Moray before the end of May, and certainly before 6 June.

The rest of the report is completed. It would be wrong for me to reveal it before committee members have considered it privately. That is an important principle to remember. Once the Morayshire evidence is in place, the report will be done and dusted and can be distributed to members.

We should remind ourselves of exactly what that report is. It is an investigation into the issues that surround rural school closures, the pressures on local authorities and the rules of the former Scottish Office and the current rules of the Scottish Executive. The committee has always been mindful that it wanted to meddle as little as possible in the workings of councils. Nevertheless, there are rules, such as the five-mile rule, which would automatically cause a school closure to be referred, formerly to the Secretary of State for Scotland and now to the relevant Scottish minister.

I will come to the committee with a series of facts, suggestions and thoughts from elected members and officials. It will then be up to the committee to deliberate on the report, to question me on aspects of it and to decide the next move. You may want to hear evidence from council officials and you may want to call Mr Peacock or Mr Galbraith to a meeting to put points to them. Further down the road, you may want to suggest how the present legislation should be tweaked. I am saying this quite openly and clearly now because you must understand what my remit was, where I am now and what we might or might not do next.

I took one issue head on last week and I want to mention it again. Through the good offices of the press, it was suggested to me that word had crept out that there was some sort of deliberate stalling tactic on the Stone report. At first I treated that rumour as a joke, but I now treat it as a rather more serious piece of spin, which I want to refute completely and utterly on the record. As every member of this committee knows, my report is done and dusted, bar Moray. No member has jumped up and down more than I have about the fact that Moray would not see me. Gillian Baxendine and David McLaren will vouch for the fact that I have telephoned endlessly about it.

I find it exceedingly difficult that Moray Council said no repeatedly. I do not think that the local authority realised what it was doing. I am exceedingly glad that the stalemate has been broken. However, anyone who might be inclined to spin to the press that there was some sort of deliberate stalling would be very wrong. I would give it right back to them in direct and ancient Stone form. This is a serious matter and the sooner the report is completed the better.

**The Convener:** Thank you.

15:30

**Nicola Sturgeon:** I would like to speak in support of both petitions. I can see the logic in considering them together, but I do not think that we should take the same action on both. The course of action that Margaret Ewing suggested

on the Glenrinnnes petition is absolutely right—it should form part of Jamie Stone's inquiry. I think it is significant that the council that is trying to close Glenrinnnes school—Moray Council—is the one that is holding up Jamie's inquiry. We should ask Moray Council not to prejudice the Glenrinnnes situation by closing the school before the committee reports. We would be asking the council to preserve the status quo until such time as we can properly consider Jamie's report and any further steps that we might take. I support Margaret Ewing's suggestion.

The situation in Argyll and Bute is quite different, as is the petition. Duncan Hamilton was right to point out that the petition does not support one particular school. Toward Primary School is being used as an indicative case, but the petition relates to the package of closures that have been proposed by Argyll and Bute Council. The petition alleges flaws in the consultation process. In particular, it raises doubts about Argyll and Bute Council's reliance on certain national information, such as statistics used by the Accounts Commission and the difference between predictions and projections made by the General Register Office. It is a different kind of petition, which merits a separate, short inquiry; we might take evidence from the Accounts Commission, the GRO and Argyll and Bute Council to reach a view on whether the national information that was used in the consultation process was used properly. That would be the appropriate action.

It is clear that an inquiry would have to be done as quickly as possible. I know that Argyll and Bute Council does not want to do anything pre-emptive, but we should co-operate by carrying out the inquiry quickly. Again, to preserve the status quo pending our inquiry, it would be appropriate to ask the council to hold off action until the outcome of the inquiry.

**Michael Russell (South of Scotland) (SNP):** I agree substantially with what Nicola Sturgeon, George Lyon and Duncan Hamilton have said. The case for Glenrinnnes Primary School is very strong and it would be quite wrong if the delaying tactics of Moray Council—I know Jamie Stone has suffered from them—meant that the council was able to bulldoze ahead on a matter that might have had a different outcome had it been more co-operative with the inquiry. I look forward to Jamie's report and I am sure that it will be treated seriously by the committee. The petition has a strong case, which I firmly support.

The petition from Neil Kay is a different matter altogether, as I would like to take a few moments to explain. The petition is about the criteria that are applied in Argyll and Bute. I must declare an interest because I have had personal experience of the school closures programme in Argyll and

Bute. It is a programme that is held in substantial disrepute by those affected. There is nothing that strikes more fear in a rural community than the closure of their school, particularly—as George Lyon and Duncan Hamilton know—if the community is already under threat, perhaps through the removal of transport services or the potential closure of the village shop or post office. The closure of a rural school serving a rural community is a devastating blow. That is something that must happen from time to time, although as I have said on many occasions, rural schools should be seen to close themselves rather than be closed by diktat or fiat.

If a community is to take part in the process that a council sets up, there must be transparency and accountability, and there must be faith in that process. There is a range of reasons why, by and large, communities in Argyll and Bute have lost faith in the process. They have done so because they have received contradictory information from the council. For example, the council's revenue budget preparation documents for this year says that there should not be a reduction in teacher staffing standards, and points out how dangerous and disruptive that would be for pupils. The result of closures would be such a reduction, but the consultation documents says that there would be no such effect. Such inconsistencies can be found throughout the documents.

At community meetings, the director of education and his officials present information from the Accounts Commission immensely strongly, as if it were set in tablets of stone. Neil Kay, who is an academic with a strong research record, has gone to the sources and discovered—we do not say whether this is right or wrong, but the allegation that he makes is serious—that that information is being misused by the council. He has evidence that the information is not being presented in a way that the Accounts Commission feels is proper.

Similarly, information from the registrar-general is used immensely strongly at meetings, which I have attended, to argue that closure is inevitable because of population projections. It turns out, though, that it is not being used as the registrar-general believes it should be. In many schools, the consultation process is regarded as a foregone conclusion. I am sure that George Lyon will confirm that the consultation process is regarded not as the first step, but as the last step.

This Parliament is about helping people who have problems with processes as much as it is about anything else. The petition does not question the right of Argyll and Bute Council to make decisions on school closures. It does not question the severe financial difficulty of Argyll and Bute Council, which I accept exists. However, the

petition is well supported across Argyll and more widely in Scotland. The fear is that the process that is being used puts the council at a tremendous advantage over groups of ordinary parents, who are deeply concerned.

Ultimately, schools will close—I started by saying that and I will finish by doing so—but when they do, parents must feel that they have been involved in a meaningful, transparent and honest process. Neil Kay raises serious concerns. I agree with Nicola Sturgeon: the right way to deal with the petition is to spend a morning of the committee's time talking to the Accounts Commission and Argyll and Bute Council, and perhaps listening to parents who have experience of the process, and then to reach some conclusions about the process. We should recognise the council's right to do whatever it wishes, but we should also recognise that the committee is accountable, open and democratic. If we can do that, I hope that the council will take the concomitant step of not proceeding to closures until we have heard that evidence.

If we find that the evidence is flawed, that is fine. Even if we decide that the evidence is accurate, the council can do what it wants. We owe it to the petitions process of the Parliament and the faith that people put in it to treat the petition seriously and to hold some form of inquiry.

**Cathy Peattie:** I have problems with the whole discussion. I am also on the Rural Affairs Committee. I accept that there is an issue about rural schools and that they are valuable as centres of local communities. I have great respect for the petitions process and have always believed in open consultation and the participation of parents in decisions. However, I also believe in local democracy and struggle to agree that the committee should consider every school closure, whether it is in a rural or an urban area.

I know that there are strong arguments, but we are not in a position to hear them all. It is not our role to do the job of local authorities. That is not to say that I am not interested or that I do not think that it is an important issue. We will have Jamie Stone's report—he is calling it the Stone report already—and there are discussions to be had. I agree that the Parliament has a role in public petitions, but it is up to councils to make decisions. I am struggling with the idea that MSPs should make decisions on councils' budgets and on how councils should do their business.

**Michael Russell:** It is worth asking whether the process is flawed, which is the allegation in the petition.

**Cathy Peattie:** There would be an issue if we were to look at the wider process of school closures—

**Michael Russell:** That is the issue in the petition.

**The Convener:** Please do not just jump back in, Mike.

**Cathy Peattie:** We will find ourselves in a position where someone presents a petition because they know the area and, quite rightly, feel passionate about what should happen. I am concerned about that, not because I do not understand the passion or the reasons behind it, but because I do not think that we can make such decisions. We should not be involved in local decision making.

**Michael Russell:** We are not making local decisions. We are asking—

**The Convener:** Fiona McLeod is next.

**Fiona McLeod:** I speak as one of the members whose constituency was involved in the discussions at the Public Petitions Committee and the Health and Community Care Committee about the secure care centre at Stobhill. The Education, Culture and Sport Committee should take that situation, and what those committees did, as an example.

When the Public Petitions Committee received the Stobhill petition, it was concerned on exactly the same grounds as it was with this petition. That concern centred not on the specific issue, but on the fact that the consultation process had been flawed. Greater Glasgow Health Board did the Parliament a great disservice by completely ignoring all that. At least Argyll and Bute Council says that it will listen to what we have to say and await our judgment.

The Health and Community Care Committee did not undertake to look at the substance—the building of the secure care unit—but at the consultation process. Until I heard what Mike Russell had to say, I did not realise how deficient the consultation process had been for the schools in Argyll and Bute. The committee should take that on board. I do not mean that we should take decisions on behalf of local councils, or support communities or councils against one another. If the petition raises concern about the public consultation process that we think should be gone through in all cases, we should appoint someone to look into it.

The Health and Community Care Committee appointed a reporter, who reported within two or three weeks. I am sure that in this case a report could be produced even more quickly. We are not telling a council what to do; we are saying to a petitioner, who has raised concerns about consultation with the public, that the committee is concerned about that too.

**Karen Gillon:** I want to put on record the clear difference between Greater Glasgow Health Board and a democratically elected local council. A quango and a local authority are not the same thing. Fiona McLeod asks us to compare what happened in a case that involved an unelected, unaccountable quango with what we should do in a case that involves an elected, accountable local authority. That is a dangerous road to go down, and a dangerous precedent to set.

Councillors are responsible to the people who elect them and will be either elected or rejected at the next election. We do not have that power over quangos. We must be careful about such comparisons.

**The Convener:** A number of members want to speak again. I will bring in members who have not yet spoken; the others I will bring in at the end.

**Mr Macintosh:** I will be brief. A number of principles that concern me lie behind the specific cases in the petitions. It is important that people who want to bring a petition to the Parliament do not have that right snatched away from them. We should show that we listen to petitions and take them very seriously indeed. However, I am also concerned that the Education, Culture and Sport Committee does not become an appeals process for the closure of rural schools.

We have set up an inquiry into the closure of rural schools, on which Jamie Stone will report soon. Can he tell us when that will be? I gather that there are time problems with the two petitions that we are considering today. Jamie may be able to reassure us that his report will be available before we have to proceed any further. I would be much happier if we could make our decision in the light of that report.

We could end up being inundated with hundreds of special cases. I agree with Fiona McLeod that there is a wider issue involved, but I would like to hear the report on all the issues that are involved in the closure of rural schools.

Can Jamie clarify whether his report will be available in time to allow us to consider the petitions in light of its findings?

**Mr Stone:** I think that, God willing, we should be able to report in the first week of June. If Moray Council goes back on its word, I will just have to submit the report without its contribution.

**Mrs Margaret Ewing:** Has a date been set for the meeting?

**Mr Stone:** We asked for the first Monday in June, I think.

15:45

**The Convener:** I must make it clear that the

inquiry that the committee asked Jamie to carry out was into rural schools and their specific needs. After we received the first petition, we asked him to include reference to school closures in a rural context. The report was not just about school closures; it was only later that we agreed to include that subject in the remit. That was why Jamie was asked to visit Moray Council and why we have been waiting for the report.

**Mr Monteith:** I was interested to hear the comments of committee members on the scope of our remit. When I was drawing up the report on the Roman remains at Cramond, it was never my intention—or the intention of the committee, I suspect—that we should tell the local authority what to do with any planning application. However, I believed that it was certainly possible for us to consider whether the consultation had been appropriate, whether there were lessons to be learned and whether opportunities and methods had arisen that might open up the Roman remains.

In that respect, I see some similarities with this inquiry. The committee should be able to consider pursuing a course of action so long as that does not prevent a local authority from making decisions that it has a right to make. The committee can consider the procedures—on consultation, for example—and weigh up alternatives. As I suspect that petitions on rural schools will become commonplace, irrespective of what Jamie Stone writes, we should at least be concerned about the consultation process. I hope that, in that respect, we can become involved before decisions are taken.

Jamie has drafted the report and it is about to be published, subject to his meeting with Moray Council. Does that mean that the situation in Argyll and Bute has been taken into account, or has that happened quite separately? If it has happened separately and is not covered by the report, that seems a further argument for our taking some action.

**Ian Jenkins:** I wonder whether we can find a middle way. I agree with Cathy Peattie that we should not be telling local authorities what to do. However, it is clear from our discussion that we disapprove of any decision that is made on the basis of flawed consultation. Mike Russell or Nicola Sturgeon—I cannot remember which—suggested that Argyll and Bute Council would listen to the committee, so we should be able to take the position that no school should be closed on the basis of flawed consultation. We do not need to tell the council what to do; if it is willing to listen to us, it will not close the school. It would conduct the consultation again—

**Michael Russell:** On its flawed terms.

**Ian Jenkins:** But it knows that we are all looking now. It is clear from our discussion that we believe that people should have a right to be consulted on decisions that will affect them. If we believe that the process has been flawed, we should say so and make clear our disapproval. However, we should not tell councils what to do.

**The Convener:** I will give everybody who has indicated a desire to speak an opportunity to do so, but I would like to try and wind things up.

**Nicola Sturgeon:** We are closer to middle ground than it would appear. Nobody is suggesting that we should usurp the role of local authorities or seek to overrule their decisions. To date, this committee has not agreed to get involved in any proposed closure. No one is suggesting that it should. Jamie Stone's inquiry is under way. All Margaret Ewing is doing is asking this committee to ask Moray Council to hold off making a decision until we have seen the outcome of that inquiry. The decision is the council's, but something in Jamie's report might have a bearing on its decision. We are not suggesting that the committee should get involved in the specifics, but we think that the status quo should be maintained pending Jamie's report.

The Argyll and Bute case is different. Again there is no suggestion that we get involved in discussion of the merits or demerits of any particular school closure. Like Cathy Peattie, I think that that would be inappropriate. However, it has been suggested that the consultation process is flawed and that it relies on information that has been—at best—misinterpreted. I do not know whether that is the case. I have read both sides and I cannot tell who is right. Because it has been alleged that information of national importance has been misinterpreted and misapplied, there is a case for our examining the process. After we have done that, the decision on the matter will still be for Argyll and Bute Council, which might or might not take on board the findings of this committee.

I want to make it absolutely clear that nobody is suggesting that we take the place of local authorities. However, the action called for by both petitions is appropriate for this committee and would see us strike a balance between dealing with petitions and respecting the rights of local authorities.

**George Lyon:** Petition PE175 does not ask this committee to take the council's place and make a decision; it asks the committee to examine the consultation process. Unlike Moray Council, Argyll and Bute Council is willing to co-operate. I ask that this committee send a strong message to the parents who are fighting the school closures and—either as part of its current investigation or as part of a new one—allow Jamie Stone to discuss the matter with the council and examine the process

that has been entered into as there is a clear feeling that the council has not followed the process correctly.

There is a deadline of 6 June. It might be possible for the committee to ask for that deadline to be put back. The fundamental point is that this committee must investigate the situation in Argyll and Bute. Six schools are up for closure. This is a major issue.

**The Convener:** Somebody referred to the five-mile rule. Does that affect any of the schools?

**George Lyon:** Three of the schools will be affected by the five-mile rule and will go back for appeal.

**Karen Gillon:** Is Toward affected by the five-mile rule?

**George Lyon:** No.

**The Convener:** You mentioned a date in early June. I have a letter in front of me from Argyll and Bute Council which says that it hopes to return to the issue at the beginning of June. I think that you mentioned a date, but I did not hear what it was.

**George Lyon:** I was informed by the local SNP councillor, Robert MacIntyre, that the decision would be taken on 6 June, but I do not know whether that is right. That is second-hand information I received from a local councillor.

**Mr Hamilton:** I believe that the end of June is the time that has been highlighted, so there is scope for the inquiry there.

I do not think that the compromise position outlined by Ian Jenkins is the way forward. I appreciate the sentiment behind it, but if a process is flawed, simply running the same consultation through the same flawed process will not instil confidence in the people of Argyll and Bute. That is essentially what this argument is about. There is no confidence in the procedure that we have been through, so I would ask that we resist that.

I am interested in the idea of this being part of the wider inquiry. However, I return to Brian Monteith's point. The report has already been delayed. If it is written, it should be published and the committee should get on with that aspect of its work. That is why a separate inquiry for Argyll would be the way forward. We should bear in mind that the focus of the Argyll petition is different from that of the report. Trying to skew the report would not help the committee in either of its inquiries.

Stobhill has been mentioned. I have never claimed that health boards and local authorities are entirely similar in terms of the public services they offer or the processes that people go through. It is important to note that the process that the Health and Community Care Committee went through to come to a decision on Stobhill has

since been of great use to that committee in its work. When there have been other examples of poor consultation, we have chosen not to go ahead with another inquiry on the ground that we have already done one.

This committee has not been through the process the Argyll petition asks for. If you do it purely as a one-off, it can be an indicative marker for future inquiries, which would save the committee some time. It is a different inquiry; I humbly suggest that you publish the report and get on with a separate inquiry, of which Argyll can take cognisance.

**Karen Gillon:** On Glenrinnnes, I am sure that Jamie can raise that if he meets Moray Council. I am not minded to say that we should write in support of stopping the closure. We have had considerable debate on this issue previously. The committee took a decision not to write to local authorities asking them to postpone closures until Jamie's report was published. That decision was made democratically by this committee and I am sure that we would want to stand by it. Jamie can speak to the council about the issue when he is there.

I have severe difficulty with every school closure that will take place in the lifetime of the Parliament and on which the Parliament is petitioned. John McAllion, in his deliberations, said that it is for the Education, Culture and Sport Committee to decide whether a closure should go ahead; however, it is not for this committee to decide whether a closure goes ahead.

**Nicola Sturgeon:** Take that up with John McAllion.

**Karen Gillon:** I did members the courtesy of not shouting at them when they were speaking; I would be grateful if they would extend the same courtesy to others. This happens consistently. If people in the committee want to bully others by shouting over them, that is fine. We can go down that road. We can all play that game. I am entitled to my view just as anyone else is entitled to theirs.

I am not minded to support the Glenrinnnes petition, for the reasons I have outlined. There is a way forward on the consultation process in relation to Argyll and Bute, rather than on the closure of individual schools. Perhaps, in the first instance, we would wish to write to the council, outlining our concerns. You can tut away, Duncan, but everyone is entitled to their opinion and I am entitled to mine. You are a visitor to this committee and I would be grateful if you would show the committee the courtesy it deserves.

**Mr Hamilton:** Frankly, I do not need a lecture from you.

**Karen Gillon:** Frankly, you are not behaving

very well.

I suggest, as I am entitled to, that, in the first instance, we write to the council as a matter of urgency, outlining our concerns about the points that are before us, because we do not know whether those points are right, wrong or somewhere in between. As soon as the committee receives a response, we will decide whether we wish to proceed further on this matter. The council may or may not answer our concerns, but we should write to it first, as a matter of urgency, and proceed on the basis of the response that we receive.

**The Convener:** We have a proposal on the table. I am willing to allow Nicola Sturgeon to comment and, if we cannot agree, we will have to put the matter to a vote.

16:00

**Nicola Sturgeon:** I do not want the discussion to descend into an acrimonious exchange, but Karen Gillon is deliberately misrepresenting what people are saying. I repeat that we are not suggesting anything other than that the decision on Glenrinnnes is for Moray Council to make. As Duncan Hamilton said, a report might help us when we get the inevitable petitions about school closures. Nothing that we do will prevent those petitions being sent. In fairness to the parents of Glenrinnnes, we should not prejudice their situation before the report is published.

Karen Gillon proposed writing to Argyll and Bute Council, but we already have the council's response to the points made in the petition. There is an impasse: Neil Kay's petition says one thing about all the statistics, and the council says another. The only way in which we can come down on one side or the other is to speak to the Accounts Commission and to the General Register Office for Scotland. Why do we not just get on and do that? It would take up about a morning of this committee's time. This matter is not about specific schools; it is about a process and about the information on which that process relies. My proposal is perfectly in order.

**Michael Russell:** That is a clear counter-proposal to—

**The Convener:** Yes, Mike, I am aware of that. I will have to bring the discussion to a close. We will move to a vote, if members will give me a moment. I think that it would be appropriate for us to deal with the two schools separately, given the comments that have been made and the different solutions that have been proposed.

Nicola, I believe that Karen Gillon said that she was responding to comments made in the *Official Report* of the Public Petitions Committee, rather



than misrepresenting what was being said. I do not think that we need to fall out over this issue. If we leave the door open, that will ensure that we continue to receive endless petitions from schools threatened by closure, which would not do our relationships with local authorities any good, and, under statute, local authorities are able to make these decisions. However, I take on board the points that have been made.

Let us turn to petition PE171, which deals with the proposed closure of Glenrinnies. We will move to a vote, because I do not think that, at this stage, we can add anything to the debate.

**Mr Stone:** With respect, convener, I wish to make one comment. We should remember where we are. The report was, rightly or wrongly, the start of a process. With the best will in the world, other events will follow, but they will take time. I am entirely in the hands of the committee. I have no problem about going to Argyll and Bute, if members want me to. I have no problem about a separate report, if members wish me—or another member—to write one.

However, the committee will have to address hard questions. Mike Russell summed up the situation, but he did not square the circle. We will have to address the issue of what the council does and what the Executive does. While we may not care to consider those issues, we may have to. I do not want MSPs, the public or the press to see my report, or any other report, as some kind of air-raid shelter into which a council can run.

Under current legislation, the education committees of the councils involved will have to take a decision sooner or later, followed by full council decisions, and then the relevant minister will have to decide. Changing the legislation is a completely different issue and will take a long time. I hope that my report is a good report and that members will like it, but let us not kid ourselves about the report—it is only the first step down a long road.

Let me sum up the situation: it is best if councils were to make the decisions. Mike Russell will recall that, three years ago, the Highland Council tore itself apart. Andy Anderson, an SNP councillor, is on record as saying to the press that there would be no more closures in the Highlands.

**The Convener:** I remind members of the committee that, when we have discussed Jamie Stone's report, I have said on a number of occasions that it may not be the end of the matter. It might be that this committee would want to take it further at that stage. Nobody is saying that Jamie Stone will have the responsibility of deciding exactly what happens with it.

**Mr Monteith:** Can I clarify that we are now taking the petitions separately? When you

described the proposal that we heard as a counter-proposal—I was not sure if it was from Mike Russell or Nicola Sturgeon—they were talking about both. Will we split the vote?

**The Convener:** Yes, I will split them both.

The first petition is PE171, which is about the proposed closure of Glenriness primary school. Karen Gillon's proposal was that we note this report. Is there a counter-proposal to that?

**Michael Russell:** The counter-proposal is that we refer it to Jamie Stone's inquiry, with the firm but polite request that Moray Council will not take action until Jamie's inquiry has been considered by the committee.

**The Convener:** Are there any further amendments?

**Karen Gillon:** That we refer it to Jamie Stone's report, but I do not think that we should make any recommendation to the council as to whether it should close the school.

**The Convener:** The first proposal is that we note petition PE171 and that it be referred to Jamie's report. The first amendment is that we refer the petition to Jamie's report and ask Moray Council to delay until that has been produced. The difference is the delay.

**Mr Stone:** On a point of order. I want my situation to be clarified. If I am writing an impartial report, with no preconceptions, where do I stand in this vote? If I vote for Mike Russell's proposal, am I open to the accusation that I am an anti-closure man writing the report? Can we ask the clerk?

**The Convener:** I think that the best thing at this stage would be for Jamie Stone to abstain.

**Nicola Sturgeon:** We are not taking a decision on the merits of this.

**Mr Stone:** If this is to be seen to be an impartial report, I do not want to go in with any baggage either way before I meet a local authority.

**The Convener:** We are not making recommendations one way or the other in either the proposal or the amendment. It is a decision for you. If you feel happier to abstain, I am sure that we will understand.

There will be a division on the amendment put down by Mike Russell.

#### FOR

Fiona McLeod (West of Scotland) (SNP)  
Mr Brian Monteith (Mid Scotland and Fife) (Con)  
Michael Russell (South of Scotland) (SNP)  
Nicola Sturgeon (Glasgow) (SNP)

#### AGAINST

Karen Gillon (Clydesdale) (Lab)  
Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)  
Lewis Macdonald (Aberdeen Central) (Lab)

Mr Kenneth Macintosh (Eastwood) (Lab)  
 Mrs Mary Mulligan (Linlithgow) (Lab)  
 Cathy Peattie (Falkirk East) (Lab)

#### ABSTENTIONS

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

**The Convener:** The result of the division is: For 4, Against 6, Abstentions 1.

*Amendment disagreed to.*

**The Convener:** There will now be a division on Karen Gillon's proposal.

**Michael Russell:** Which proposal is that?

**Mr Macintosh:** That we refer this to Jamie Stone's report.

**Michael Russell:** This is the substantive proposal.

**The Convener:** I am sorry. This is not my way of voting. This is the way that the Parliament has asked us to take the votes.

#### FOR

Karen Gillon (Clydesdale) (Lab)  
 Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)  
 Lewis Macdonald (Aberdeen Central) (Lab)  
 Mr Kenneth Macintosh (Eastwood) (Lab)  
 Mrs Mary Mulligan (Linlithgow) (Lab)  
 Cathy Peattie (Falkirk East) (Lab)

#### ABSTENTIONS

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

**Michael Russell:** I think that we are completely lost on this one. Suffice it to say that we will refer it to Jamie Stone's report.

**The Convener:** The result of the division is: For 6, Against 0, Abstentions 1.

*Motion agreed to.*

**The Convener:** We will note petition PE171 and it will be referred to Jamie Stone's report.

I will ask Gillian Baxendine to explain the procedure for the votes. I know that it does not always make sense, but it is the Parliament's procedure, not mine.

**Gillian Baxendine (Clerk Team Leader):** The procedure for voting on a motion is the same as in the Parliament. Members vote first on an amendment; if the amendment is disagreed to, members will then vote on the main motion.

**The Convener:** The second proposal is for PE175, on the proposed closure of Toward Primary School.

**Karen Gillon:** Having listened to the debate, I suggest that we undertake a very short report, which Cathy Peattie will present to the committee within a month.

**Nicola Sturgeon:** My counter-proposal is that we set up a very short committee inquiry that will take evidence from the council, the Accounts Commission and the GRO.

**The Convener:** Are there any further amendments?

**Ian Jenkins:** What will Cathy's report involve?

**Cathy Peattie:** I will not know until I have done it.

**Karen Gillon:** The report will take on board the points that have been made.

**Ian Jenkins:** Are reports and inquiries not the same thing?

**The Convener:** The difference is—

**Nicola Sturgeon:** A separate inquiry will probably take us only one meeting, which makes more sense and is quicker than appointing a reporter.

**The Convener:** I just want to explain the difference between having an inquiry and appointing a reporter. The difference is that the committee as a whole would undertake an inquiry, whereas one committee member—in this case, Cathy—would investigate the issue and then report back to us. Perhaps committee members should remember our agenda for the next few weeks when they come to vote.

We will now vote on Nicola Sturgeon's amendment that the committee hold a short inquiry.

#### FOR

Fiona McLeod (West of Scotland) (SNP)  
 Mr Brian Monteith (Mid Scotland and Fife) (Con)  
 Michael Russell (South of Scotland) (SNP)  
 Nicola Sturgeon (Glasgow) (SNP)

#### AGAINST

Karen Gillon (Clydesdale) (Lab)  
 Lewis Macdonald (Aberdeen Central) (Lab)  
 Mr Kenneth Macintosh (Eastwood) (Lab)  
 Mrs Mary Mulligan (Linlithgow) (Lab)  
 Cathy Peattie (Falkirk East) (Lab)

#### ABSTENTIONS

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)  
 Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

**The Convener:** The result of the division is: For 4, Against 5, Abstentions 2.

*Amendment disagreed to.*

**The Convener:** We will now vote on Karen Gillon's substantive motion, that Cathy Peattie reports back to the committee in one month.

#### FOR

Karen Gillon (Clydesdale) (Lab)  
 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)  
 Mrs Mary Mulligan (Linlithgow) (Lab)  
 Cathy Peattie (Falkirk East) (Lab)  
 Michael Russell (South of Scotland) (SNP)  
 Nicola Sturgeon (Glasgow) (SNP)

#### ABSTENTIONS

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

**The Convener:** The result is as follows: For 10, Against 0, Abstentions 1.

*Motion agreed to.*

**Ian Jenkins:** Would it be possible to register concern—

**The Convener:** I think that we have had the opportunity to register our concern, Ian.

The next petition is PE153, which calls for the Parliament to introduce legislation to require local authorities to provide access to Gaelic as a second language where reasonable demand exists. Do members have any questions?

**Karen Gillon:** As I understand that the Executive will lodge an amendment at stage 3 of the Standards in Scotland's Schools etc Bill that will deal with the issue of Gaelic, we should refer the petitioners to that.

**Mr Macintosh:** As I am aware that our time is moving on, I just want to say that we have had a chance to talk about Gaelic education in committee and in the chamber, and will do so again. However, I am quite happy with Karen Gillon's recommendation.

**The Convener:** The recommendation is that we note the petition and make it known to the Executive before it lodges its amendment at stage 3 of the Standards in Scotland's Schools etc Bill. Are members agreed?

*Members indicated agreement.*

**The Convener:** The next petition is PE164, which calls for the introduction of state-financed kindergartens. Do members have any questions or comments?

**Ian Jenkins:** Sibylle Alexander is an enthusiastic advocate of kindergarten education, particularly of the Steiner model. She raises interesting points, which are worthy of our further consideration. I hope that the committee will take on the job of examining the structure of pre-school education in the longer term. At the moment, our timetable is so full that we may not be able to do that immediately; however, it is worth doing in the longer term.

**Cathy Peattie:** In the meantime, we should examine pre-school education. As a parent who is a strong supporter of the pre-school playgroup

movement, I know that there are many agencies involved in pre-school provision. We need to consider such provision in its entirety, rather than identify one model or another.

16:15

**Ian Jenkins:** I agree.

**Fiona McLeod:** Yes. When we are developing our future work programme, we should look into the whole structure of pre-school education, and that should not be three or four years down the line.

**The Convener:** We are all quite keen to look into the issues that this petition raises, but we will simply note it at this stage. Are we agreed?

*Members indicated agreement.*

**The Convener:** The next petition is PE184 from the Federation of Child Poverty Action Groups in Scotland, and concerns the extension of free school meals to people on the working families tax credit and the disabled persons tax credit. Are there any questions or comments?

**Nicola Sturgeon:** I agree with the clerk's recommendation to note the petition, seek the comments of the other committees and return to it to decide whether to take further action. The issue that it raises is valid and substantive.

**The Convener:** Are we agreed?

*Members indicated agreement.*

**The Convener:** Does the committee want to consult further with the Health and Community Care Committee and the Social Inclusion, Housing and Voluntary Sector Committee?

*Members indicated agreement.*

**The Convener:** The final petition is PE160, on health and safety training. Are there any questions or comments? There are none. We should take this issue seriously, but Cathy Jamieson has lodged a motion and is currently conducting some cross-party work on it. At this stage, the committee should simply note this petition. Are we agreed?

*Members indicated agreement.*

**Mr Macintosh:** The issue has also been brought to my attention by a constituent.

**The Convener:** Item 4 on the agenda deals with Mike Tyson and the national football stadium. I have lodged a motion for debate, for which reason I shall vacate the chair and allow Karen Gillon, as the deputy convener, to take over.

**The Deputy Convener (Karen Gillon):** We will adjourn for a couple of minutes to sort ourselves out.

16:17

*Meeting adjourned.*

16:20

*On resuming—*

## **National Football Stadium (Mike Tyson)**

**The Deputy Convener:** I call the committee to order.

There is a motion before us that I have deemed to be competent, but I need the committee's permission for us to proceed with the debate on it, given that it is a motion without notice.

**Mrs Mary Mulligan (Linlithgow) (Lab):** I move,

That motion S1M-00893 be taken without notice.

**The Deputy Convener:** The question is, that motion S1M-00893 be taken without notice. Are members minded to accept the motion?

**Members:** Yes.

*Motion agreed to.*

**The Deputy Convener:** I have also decided that we can debate two amendments to the motion: one in the name of Nicola Sturgeon, the other in the name of Brian Monteith. I assume, Brian, that your amendment is a delete all and insert amendment.

**Mr Monteith:** Yes, it is.

**The Deputy Convener:** I shall therefore take Nicola Sturgeon's amendment as an amendment to Mary Mulligan's motion, and yours as a delete all and insert to that motion. I ask Mary Mulligan to move her motion.

**Mrs Mulligan:** I thank the committee for taking this motion. I know that it was proposed at short notice, but I thought it appropriate that this committee should have the opportunity to put its point of view, as it has been considering sporting issues in the new, devolved Scotland.

The people whom I represent have told me clearly that they do not want Mike Tyson to fight here in Scotland. The man committed a crime and served a sentence, and it has been suggested that that should be the end of the matter. However, I think that the issue is much deeper than that. The fact is that the man has shown no remorse for that crime and therefore shows a complete lack of understanding of why people are upset by the fact that he still thinks he can represent sport in any shape or form.

It is appropriate for this committee to be able to debate this resolution. Unfortunately, I do not think that the same can be said of Nicola Sturgeon's amendment. I have tried to keep the resolution in

line with the remit of the committee in an area in which we can have influence and show some understanding of the issues. I therefore do not accept Nicola Sturgeon's amendment. As has been said, Brian Monteith's amendment just seems to be a complete alternative. I therefore do not suggest that members should vote for that either.

I fully understand the financial pressures that are being put on Hampden. The committee knows the difficulties that it has gone through to get the stadium up and running. However, I do not think that one can use that as an excuse to reject all morality in this case, and there is a moral question as to whether we should allow people such as Mike Tyson to use a national stadium, a stadium of standing in this country of Scotland. Those who have taken their 30 pieces of silver and run away have been shown to be wrong in the past. The Scottish Football Association and those who are involved with the national stadium are going down those lines. I think that that is wrong and that the committee should take this opportunity to say so.

As far as I am concerned, sport should be associated with a positive image of being healthy, being involved with the community and showing team spirit. None of those qualities could be attributed to Mike Tyson. Over recent years, we have seen a number of sports people, men and women, come out in support of a number of good causes to show that sporting people can be associated with what is positive in all our lives. Here in Edinburgh, the Hibernian and Hearts football teams have supported the Zero Tolerance campaign against violence against women. That has done a great deal of good. I can see only damage being done by accepting that Mike Tyson should appear at our national stadium here in Scotland.

I move,

That the Education, Culture and Sport Committee calls upon the Scottish Football Association to reconsider its proposal to host the boxing contest involving Mike Tyson, considers that it is inappropriate to allow the use of Scotland's national stadium by an individual who has been convicted of the crime of rape and considers that he represents an image of sport and boxing in particular that is unacceptable in this country and which, if the bout goes ahead, will encourage young people to believe that violence, particularly violence against women, is to be tolerated.

**Nicola Sturgeon:** I agree with much of what Mary Mulligan has said. The majority of people in the Parliament and, I believe, Scotland are firmly of the view that Mike Tyson is not welcome in Scotland and that to allow him to come here and the fight to go ahead would send all the wrong messages to women and young people in Scotland, and to Scotland as a whole.

There is also a great deal of concern that Jack

Straw did not properly consider the Parliament's view before he took his decision. I am sure that many people inside and outside the Parliament were as angry as I was to hear that Jack Straw had met the promoters of the fight days before taking his decision but chose to ignore the views of the democratically elected Parliament of Scotland. In the light of the consensus in the Parliament that the fight should not be allowed to go ahead, it is appropriate for the committee to ask the Scottish Executive, acting in the public interest, to do everything in its power to ensure that the fight does not go ahead.

It is important that nothing be ruled out at this stage, including court action in the form of judicial review of Jack Straw's decision. There is legal opinion to suggest that a judicial review might be successful. We know that women's groups around Scotland are considering taking such action. There is a precedent in the judicial review of Jack Straw's previous decision to allow Mike Tyson into the country, so that should not be ruled out at this stage, if we are determined to do everything in our power to stop Mike Tyson setting foot in Scotland.

As Mary Mulligan said, it is right to ask the SFA to reconsider its decision. However, I do not think that, by doing that, the Scottish Executive, acting on behalf of the Parliament and in the public interest, can abdicate its responsibility to do everything in its power to stop Mike Tyson coming here. If there is the consensus in the Parliament that I believe there is on the need to stop the fight going ahead, we have to be prepared to do everything possible to ensure that it is stopped. My amendment expands on Mary's motion to ensure that we send the strong message to the Scottish Executive that it should explore every opportunity to stop the fight happening and that nothing should be ruled out at this stage.

I move amendment S1M-00893.1, to insert at end:

and calls upon the Scottish Executive to ensure by whatever means possible and, if necessary, by arranging for a judicial review to be sought, that the boxing match scheduled for 24 June 2000 at Hampden Stadium does not go ahead.

**Mr Monteith:** The proper place for this debate is Westminster; the proper people to represent the views of the Scottish public are the Westminster MPs; and the proper minister to take up the issue and represent Scotland's voice is John Reid. The Conservative party entered the Parliament to support the constitutional settlement, which was endorsed by a referendum of the Scottish people, and which clearly leaves immigration policy in the hands of the Home Secretary. Accordingly, it is the Home Secretary who should take the decision whether Michael Tyson should be allowed into the country. It is correct that any protest should be

voiced through members of the Westminster Parliament and through John Reid, the Secretary of State for Scotland.

Once that decision has been taken, it is not for us to suggest to the SFA how it should run its affairs. Earlier today, we recoiled from telling local authorities how to run rural schools and whether they could close them. None of us wanted local authorities to be prevented from taking decisions that were for them to take. It is important that the SFA act as commercial manager in running the national stadium, within the law and the licensing regulations by which Hampden is bound. The SFA should make proper commercial judgments.

I acknowledge some of the arguments. I do not support Mike Tyson in a sporting sense—I never liked him as a boxer—nor do I support his activities outside the ring, which brought great condemnation upon him. However, if anything was to be done, it should have been done by the boxing associations, which should certainly have thrown Mike Tyson out of boxing. Yet, people who have fought him and suffered at his hands have chosen to fight him again. It is not for the committee to challenge the SFA's decision.

Comments have been made about the remorse of Mike Tyson. We cannot expect remorse from a man who believes that he is not guilty and that he has suffered injustice. I have no idea whether he is right or wrong; I am not aware of all the facts.

16:30

I am concerned that we do not lose sight of the need to encourage rehabilitation. When I attended Murrayfield stadium to hear Mick Jagger, I did not see that as an endorsement of Mick Jagger's drug taking or his family life. I went to hear the Rolling Stones and to enjoy their music.

The SFA's decision to allow the bout to go ahead, or people's decision to watch the bout, does not condone Mike Tyson's record as a rapist. He has been convicted of a terrible crime, but he has served his time and it is only proper that people who have served their time have an opportunity for rehabilitation. In the same way, I support the right of Jimmy Boyle—a convicted murderer—to go abroad and sell his sculptures as a reformed character. That is what a liberal establishment is about. If we were to meddle in the SFA's purely commercial decision because we do not have the authority to stop Mike Tyson getting into Scotland, we would be abusing the constitutional settlement that we all agreed to.

I move amendment S1M-00893.2, to leave out from "calls upon" to end and insert

believes that it is for the commercial managers of Scotland's national stadium to determine what events should be held at that venue so long as the promoters and

participants of any such event meet with the local and national licensing and legislative requirements.

**Mr Macintosh:** I support Mary Mulligan's motion. I hope that the committee can agree on the motion and that Nicola Sturgeon and Brian Monteith will withdraw their amendments so that we can have a stronger position. I know that an SNP motion on the matter will be debated in the chamber tomorrow. My position is clear: the SNP is using the Tyson case to question the constitutional settlement. We can all unite around the fact that we are opposed to Mike Tyson appearing at Hampden. Instead of considering what we cannot do, we should think about what we can do within our powers. It is within our locus to consider the running of Hampden stadium.

It is important that we treat Mike Tyson fairly and do not treat him any differently because of his wealth or his fame. However, there is no doubt that his reputation for violence against women is almost as great as his reputation as a boxer. I do not think that it is appropriate for the SFA to give him centre stage in our national stadium. Celtic Football Club—a private company—decided that a Mike Tyson fight at Celtic Park was not worth sullyng its reputation for. I am appalled that the SFA—the custodians of the national interest as regards the sport—should think that the reputation of the Scots will not be damaged by its allowing Mike Tyson to fight.

I think that Mary Mulligan will want to write to the SFA with the wording of whatever motion we agree today. The SFA could do a great deal to endorse the Scottish Executive's strategy against domestic abuse, and to send out a message that violence against women is completely unacceptable in this country. No matter what position the SFA finds itself in, it could do an awful lot, and I expect some sort of response from it.

**Cathy Peattie:** The messages that we send to people are important. I disagree with Brian Monteith's point about people not going to see Mick Jagger because they agree with his lifestyle. We must be careful what messages we send to women and young people in this country. Mike Tyson is not the kind of role model that any member would support. I disagree strongly with Jack Straw, and would not even attempt to defend his decision. Along with the majority of MSPs—as was demonstrated last week—I think that he was wrong.

I am reluctant to go down the constitutional route. I do not doubt Nicola Sturgeon's motives, as I know that she cares deeply about the issue. However, there was a lot of anger from women members in the chamber last week when the matter seemed to be turned into a constitutional issue.

When I asked someone why Hampden was built, I was told that the reason was national pride. It is Scotland's national stadium, so it is fitting that the committee supports the provision of extra funding for it, and that the Executive should find ways to ensure that we have a national stadium. However, if the Tyson fight goes ahead, that will be a matter not for national pride, but for national shame. I support Mary Mulligan's motion.

I hope that we can send out a strong message to the people of Scotland and to the SFA. My surgery was held in a supermarket on Saturday. All sorts of people were coming up to me—wee old ladies, folk with families and granddads with bairns—and saying, "We're not happy with this. You need to do something about it." The message from the people of Scotland is that the fight should not go ahead.

**Mr Stone:** I endorse wholeheartedly what Cathy Peattie says. This guy is a rapist and a thug. It is a disgrace that he should come to this country.

The option of having a judicial review was suggested before, when Mike Tyson came to Manchester, but it did not work. It might not work this time, and would mean nothing to most people. I would ask the people of Scotland to stick two fingers up right in his face. Every door of every restaurant and pub should be slammed in his face. Taxis should avoid him, and drivers should splash him with puddles. The only way to get the message across to him is to ridicule him and boo him down, and I ask the whole of Scotland to join in giving two fingers to Tyson.

**Fiona McLeod:** Nicola Sturgeon's amendment calls for a judicial review to be arranged if necessary, to prevent the fight from going ahead. When Mike Tyson was scheduled to fight in Manchester, a judicial review was suggested. We were told that that judicial review did not go ahead because the tickets had been printed and there would have been commercial problems. Jack Straw did not decide to allow Mike Tyson to enter the country without reference to the fact that Mike Tyson is famous, a world champion and a millionaire. If Mike Tyson had been just anybody, he would not be coming here. We must ask why Jack Straw made that decision.

I agree with Cathy Peattie: Jack Straw's decision was wrong. That is why Nicola Sturgeon's amendment was lodged. It is an amendment not on the constitution, but on a judicial issue. It suggests that the Scottish Parliament says to the Home Secretary that his decision was wrong, not because we disagree with it, but because, judicially, he came to the wrong conclusion. That is why the matter must go to a judicial review. The Parliament can say as often as it likes that it disagrees with the decision on moral grounds; however, if we believe that the Home Secretary

was judicially incorrect, we should seek a judicial review of his decision.

Someone said that it is a matter of what the committee and the Parliament can do. Well, we can talk as much as we like, but this is a reserved matter. We should produce action, even if that action must be taken through the judicial system. Nicola Sturgeon's amendment would allow the Parliament to effect a decision on the matter. Rather than talking about it endlessly, we could stop the man from coming here—and that is the only way in which we can achieve that. I urge the committee to consider the matter in judicial terms, rather than constitutional terms.

**Lewis Macdonald:** On one level, Brian Monteith's amendment is no more than a statement of fact. It states that

"it is for the commercial managers of Scotland's National Stadium to determine what events should be held at that venue so long as the promoters and participants of any such event meet with the local and national licensing and legislative requirements."

That is obviously true, but what is significant about the amendment is not what is in it, but what has been left out. In essence, it says that the committee, as a committee of the Parliament, does not have the right to express its view or to tell the SFA the views of members who are representing their constituents. Brian Monteith is rejecting the idea that the Education, Culture and Sport Committee has a place in considering the matter when an event happens at our national sporting venue.

As members will recall, earlier this afternoon I pressed Sam Galbraith, not for the first time, on the allocation of Scottish cup final tickets for Hampden on Saturday. He made clear in his answer that there is nothing in the Hampden rescue package to allow him to direct National Stadium plc, either on who appears at Hampden or on ticket allocations. I do not dispute that. However, that does not preclude us from taking a moral position and having the right to express the views that have been put to us in our constituencies over the past few days.

Equally, we should not support Nicola Sturgeon's amendment. It is open to any citizen to seek a judicial review of a Government decision in the courts—that is clear—but to say that one democratically elected Parliament should challenge the decision of a minister who is accountable to another democratically elected Parliament, through the courts, is quite a different matter. That action could only undermine the devolution settlement; Fiona McLeod's speech reinforced the suspicion that the amendment is designed to do that. The courts are as much a part of the constitution as the UK Parliament or this devolved Parliament. When the courts seek to rule

on the decisions of one Parliament at the request of another, that is a constitutional matter.

Nicola Sturgeon's amendment goes beyond a judicial review and offers the opportunity to fall into an old Trotskyist trap, by saying "by whatever means possible". The Parliament cannot endorse that and go down that road. We should support Mary Mulligan's motion, which allows us to express the views of our constituents in the most appropriate way.

**Ian Jenkins:** I have said before, on other issues, that I do not like politicians to ban things. Nevertheless, I agreed to the motion last week and I shall support Mary Mulligan's motion today, with some reservations.

When I lived in Glasgow as a student, I used to watch amateur boxing. I would still watch the big fights if they were ever on BBC or ITV. I do not regard the Tyson fight as sport in any shape or form. It is a tawdry exercise. A once-dominant fighter who is near the fag end of his career is cashing in on his notoriety by staging a non-event fight.

The audience is willingly submitting to being financially exploited in its desire to witness crude violence. It seems to me that the fight is likely to be a short-lived mismatch. We are talking about a man who, although he was a powerful fighter, has bitten off the ear of his opponent when in the ring and who has raped a woman in his hotel room. This is a man who is troubled in many ways.

If I stand back, I can recognise that Tyson is a victim of the social and cultural pressures of his experience. I can understand the argument that he has served his sentence and should be able to undertake rehabilitation, but there is no sign that any rehabilitation is taking place.

16:45

For me, the clinching argument is what Fiona McLeod said: if Joe Public had a similar record, it is very unlikely that he would be allowed in the country. I do not think that the rules that apply to the ordinary guy should be changed for the sake of Mike Tyson, for the reasons that Fiona outlined. The whole thing is a farce that should be ended before it begins.

I worry about Nicola Sturgeon's amendment in one regard. I suspect that a judicial review would find that nothing wrong has happened. We all know that something wrong has happened; it might be legally right that Tyson can enter the country, but it is morally wrong. I think that we should take the moral stand.

**The Deputy Convener:** Before I call those members who have lodged amendments, does any other committee member have something to

say? If not, I will ask Brian Monteith to sum up on his amendment.

**Mr Monteith:** In essence, there are two arguments here. One is a separate argument in relation to Nicola Sturgeon's amendment which, as I mentioned earlier, I feel strongly about in regard to the constitutional issue. There may be a point in a judicial review, but if there is, it is for MPs to raise. The SNP has MPs in Westminster and that is the proper place for such a step.

Moving on to the issues that surround my amendment, I want to ask where we should stop. It was quite correct of Lewis Macdonald to point out that my amendment is fact and that the committee could make a judgment on the conduct of the SFA in managing the stadium. However, does that mean that we should say that convicted criminals who have served their time should not be allowed into the national stadium? That might be going too far. Perhaps it should just apply to convicted rapists—we could narrow it down to rapists, because that is a particularly unpopular crime, as it should be. However, that is just as absurd and such a stance would clearly throw the committee into disrepute.

We are not taking that approach not because it is impractical but because we want to send a message to Mike Tyson—we want to say that what he has done is wrong. I do not think that the committee's message will make a blind bit of difference. I do not believe that it will hurt Mike Tyson, because he is not the one who wants the fight to take place at Hampden so much—that is the promoter, Frank Warren. It would be wrong to think that we could damage Mike Tyson's pocket.

We will not be sending the wrong message to the people who attend and watch the match, no matter how long it lasts. The message will not be that as a nation, we are condoning Mike Tyson's record as a rapist by allowing the fight to go ahead, but that we are an open society that allows people, even if they have committed heinous crimes, to serve their time and to rehabilitate themselves by going about the only business some of them know.

**Nicola Sturgeon:** It was Ken Macintosh who stressed the importance of sending a unanimous message from the committee. I suspect that the message will not be unanimous, but I will support Mary Mulligan's motion regardless of what happens to the amendment. I think that the amendment would strengthen the motion, because it would take us beyond words of support by suggesting action that we can take.

My amendment is not about whether Jack Straw should have the power to make the decision—that is a bigger argument that I suspect we will engage in many times over the coming years. Neither is



the amendment about whether we agree or disagree morally with Jack Straw's decision—it is clear that we disagree with it, morally. It is about whether Jack Straw has correctly applied the rules. There is doubt—to say the least—that the rules have been applied correctly. Mike Tyson has not been treated as a normal member of the public. The point of a judicial review is to test whether the rules have been correctly applied.

Lewis Macdonald's point about one Parliament undermining another by taking court action does not stand up to scrutiny. Nobody uses that example when the European Union challenges Westminster decisions through the European Court of Justice. That argument does not stand up. Lewis Macdonald is citing constitutional arguments that I am not making, which is to be regretted.

Jamie Stone said that judicial review means nothing to most people. That may be technically true, but people will want to see that the Parliament, and the Executive on behalf of the Parliament, is doing everything it can to stop this fight going ahead. My amendment says that there is an avenue that is worthy of exploration; we should not shut it off at the moment. There is a precedent to show that it might be successful; if it is not tried, it cannot succeed. The argument that it might not succeed is not strong.

My amendment is about sending a strong message that we do not want Mike Tyson here and, if necessary, doing more than that. We should stand up and be counted, and be prepared to act. The amendment would strengthen the motion, which is otherwise very good.

**Mrs Mulligan:** I am disappointed in Brian Monteith's amendment. The figure of Pontius Pilate springs to mind—I am feeling biblical today. Are we supposed to deny all concerns about the fight and the messages that it will send out, or are we going to stand up and say what we and our constituents are thinking? It is important that we make our views known on this matter. Brian is wrong to say that that is not our place. My great concern is that unrepented violence is being associated with sport, which is the wrong message to send to our young people, women and men. That is why we must say clearly that we are unhappy with the situation, regardless of any other decisions that have been made. If there is anything we can do to stop the fight going ahead, we should take that opportunity.

I hope that members of the committee will unite in support of this motion on a matter that we all feel strongly about. I have tried to keep it within our remit, which is why I will not support Nicola Sturgeon's amendment. Her amendment goes beyond our remit; I understand that its wording is part of the motion that the Parliament will debate

tomorrow. In content, Nicola's amendment is incorrect because, as Lewis Macdonald said, there is the risk of pitting Parliament against Parliament, which would be wrong. This committee would be the wrong place to decide to do that, although I accept that that issue will be debated in the Parliament tomorrow.

It is important that sport is used to send the right messages to people and that it is a way of bringing individuals and communities together. Mike Tyson is performing in a spectacle—as Ian Jenkins said, it is not a sporting event—for all the wrong reasons. We should say clearly that it is a spectacle that the Scottish people do not want to go ahead. It should definitely not take place in what is regarded as a prestigious Scottish national stadium. I hope, therefore, that the committee will support my motion.

**The Deputy Convener:** The question is, that amendment S1M-893.1, in the name of Nicola Sturgeon be agreed to. Are we agreed?

**Members:** No.

**The Deputy Convener:** There will be a division.

#### FOR

Fiona McLeod (West of Scotland) (SNP)  
Nicola Sturgeon (Glasgow) (SNP)

#### AGAINST

Karen Gillon (Clydesdale) (Lab)  
Lewis Macdonald (Aberdeen Central) (Lab)  
Mr Kenneth Macintosh (Eastwood) (Lab)  
Mr Brian Monteith (Mid Scotland and Fife) (Con)  
Mrs Mary Mulligan (Linlithgow) (Lab)  
Cathy Peattie (Falkirk East) (Lab)  
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

#### ABSTENTIONS

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)

**The Deputy Convener:** The result of the division is: For 2, Against 7, Abstentions 1.

*Amendment disagreed to.*

**The Deputy Convener:** The question is, that amendment S1M-893.2, in the name of Brian Monteith, be agreed to. Are we all agreed?

**Members:** No.

**The Deputy Convener:** There will be a division.

#### FOR

Mr Brian Monteith (Mid Scotland and Fife) (Con)

#### AGAINST

Karen Gillon (Clydesdale) (Lab)  
Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)  
Lewis Macdonald (Aberdeen Central) (Lab)  
Mr Kenneth Macintosh (Eastwood) (Lab)  
Fiona McLeod (West of Scotland) (SNP)  
Mrs Mary Mulligan (Linlithgow) (Lab)  
Cathy Peattie (Falkirk East) (Lab)  
Nicola Sturgeon (Glasgow) (SNP)

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

**The Deputy Convener:** The result of the division is: For 1, Against 9, Abstentions 0.

*Amendment disagreed to.*

**The Deputy Convener:** The next question is, that motion S1M-893, in the name of Mary Mulligan, be agreed to. Are we all agreed?

**Members:** No.

**The Deputy Convener:** There will be a division.

#### FOR

Karen Gillon (Clydesdale) (Lab)  
 Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)  
 Lewis Macdonald (Aberdeen Central) (Lab)  
 Mr Kenneth Macintosh (Eastwood) (Lab)  
 Fiona McLeod (West of Scotland) (SNP)  
 Mrs Mary Mulligan (Linlithgow) (Lab)  
 Cathy Peattie (Falkirk East) (Lab)  
 Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)  
 Nicola Sturgeon (Glasgow) (SNP)

#### AGAINST

Mr Brian Monteith (Mid Scotland and Fife) (Con)

**The Deputy Convener:** The result of the division is: For 9, Against 1, Abstentions 0.

*Motion agreed to,*

That the Education Culture and Sport Committee calls upon the Scottish Football Association to reconsider its proposal to host the boxing contest involving Mike Tyson, considers that it is inappropriate to allow the use of Scotland's national stadium by an individual who has been convicted of the crime of rape and considers that he represents an image of sport and boxing in particular that is unacceptable in this country and which, if the bout goes ahead, will encourage young people to believe that violence, particularly violence against women, is to be tolerated.

**The Deputy Convener:** I suggest that the committee writes today to the SFA on behalf of Mary Mulligan as a matter of urgency, setting out the terms of the motion and urging the SFA to reconsider its decision. We should also include Kenneth Macintosh's suggestion that the SFA should examine the possibility of an initiative relating to domestic violence and the use of sporting personalities to promote intolerance of domestic violence.

I thank the committee for its consideration of the matter and I hand the chair back to Mary.

**The Convener:** I am very aware of the time, colleagues, so we will push on.

## Children's Commissioner

**The Convener:** Item 5 is the memorandum from the Executive on the children's commissioner. I suggest that we hold that item over.

## Danish Symposium

**The Convener:** Item 6 is a Danish symposium to which I have been invited, but am unable to attend. Does any member wish to go? We have spoken about children and play, so it would be useful if a member were to attend. If any member is interested, speak now.

**Fiona McLeod:** I would like to go but I cannot. If no member can go, we could, perhaps, send one of our research assistants. I think that it is worth getting information—

**The Convener:** Okay. Is anybody able to attend?

**Mr Stone:** What day is it on?

**The Convener:** It is on a Friday. I will take Fiona McLeod's point on board and we will see if we can get somebody to go. It is being held in Edinburgh.

**Karen Gillon:** I might be able to go. I will get back to the clerks on that.

**The Convener:** We will send Karen and, failing that, we will try to ensure that some other representative of the committee attends.

Unless any member feels that we should deal urgently with it, we will leave out item 7.

**Mr Monteith:** Has any written evidence come in for the Hampden inquiry?

**The Convener:** Yes. The closing date for evidence is Friday. As soon as it is collated it will be circulated to members.

Thank you for your attendance.

*Meeting closed at 16:58.*

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