



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Wednesday 1 December 2010

Session 3

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## Scottish Parliament

*Wednesday 1 December 2010*

[The Presiding Officer *opened the meeting at 14:00*]

### Time for Reflection

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

Good afternoon. The first item of business is time for reflection. Our time for reflection leader today is Marion Chatterley, spiritual and pastoral care co-ordinator at Waverley Care.

**Marion Chatterley (Spiritual and Pastoral Care Co-ordinator, Waverley Care):** Today, as many of you will know, is world AIDS day and I am delighted to have been given the opportunity to share a moment of reflection with this Parliament.

HIV is now a treatable disease; we cannot cure it, but we have treatments that work, and yet people are still dying from HIV-related illness, not just in resource-poor countries where access to treatment is difficult but here in Scotland. Many of those people are actually being killed by stigma.

Let me tell you about someone whose fear of HIV-related stigma took over his life. He was a young man with a bright future ahead who had taken a sexual risk. He became so consumed by anxiety—totally convincing himself that he had contracted HIV—that he became unable to work. He lost weight, he became clinically depressed and he was in danger of losing all that he had worked hard to achieve. It took him more than a year to find the courage to take a test. His fear was not really of illness or of medical intervention, but of the way that he might be treated if he tested positive for HIV.

That man's real fear was of the way that other people might make him feel. He thought that he would be discriminated against if he were to test positive. He truly believed that people would treat him differently and the thought of being treated differently was too much for him to manage.

There is talk at the moment within HIV organisations of how we might work with the churches to help them become HIV competent. By that, we mean not that churches should turn themselves into centres of expertise but that they should be places where people who are living with HIV feel welcomed—not more welcomed than anyone else, but welcomed as equals.

I wonder whether we should, as a community of people living in Scotland, seek to become an HIV competent society. That, for me, would be a society where people who lived with HIV were treated as equals—not singled out for special

treatment, nor stigmatised because of the virus that they carry. If we were to achieve that, we might begin to come near to obeying that fundamental commandment that underpins much of Holy Scripture:

“love one another as I have loved you.”

God's love for each one of us is unchanging and non-judgmental. If we were able to express even a hint of that love, we would go a long way towards becoming an HIV competent society.

## Business Motion

14:04

**The Presiding Officer (Alex Fergusson):** Our next item of business is consideration of business motion S3M-7513, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a revision to business for today.

*Motion moved,*

That the Parliament agrees the following revision to the programme of business for Wednesday 1 December 2010—

delete

*followed by* Scottish Government Debate: Annual Fisheries Negotiations

and insert

*followed by* Ministerial Statement: Scotland Bill

*followed by* Scottish Government Debate: Annual Fisheries Negotiations—[*Paul Martin.*]

*Motion agreed to.*

## Scotland Bill

**The Presiding Officer (Alex Fergusson):** The next item of business is a statement by Fiona Hyslop, on the Scotland Bill. The minister will take questions at the end of her statement, therefore there should be no interventions or interruptions during it.

14:05

**The Minister for Culture and External Affairs (Fiona Hyslop):** The United Kingdom Government published its Scotland Bill yesterday. The Scottish Government welcomes many aspects of the bill and the further devolution that it provides. However, it is no secret that the proposals in the bill do not meet the ambitions that the Scottish Government and many people in Scotland have for Scotland.

The proposals for additional devolution are limited. For example, the bill would give the Scottish Parliament limited additional legislative competence in matters such as landfill tax, stamp duty and air guns. It would take away legislative competence in three other areas, including insolvency and the health professions. It does not even implement fully the recommendations of the Commission on Scottish Devolution.

The key test for the Scotland Bill is whether it will help the Scottish economy to grow, protect jobs and ensure that our public services have the investment that they need. With that in mind, the legislative consent memorandum that we lodge today provides a first detailed analysis of the proposals in the bill.

As all parties have recognised, proper scrutiny of the bill is essential. The Minister for Parliamentary Business has lodged a motion on behalf of the Parliamentary Bureau to establish an ad-hoc committee with the remit:

“To consider the Scotland Bill and report to the Parliament on any relevant Legislative Consent Memorandum”.

The Scottish Government will work constructively to assist the committee. The bill and accompanying documents leave many unanswered questions. Our aim is to support the Parliament in the thorough scrutiny of the proposals, identify improvements and ensure that the Parliament is able to take an informed decision on consent.

At the heart of the bill are the financial provisions. Unfortunately, as drafted, they are at best a missed opportunity and, at worst, potentially damaging to Scotland's economy. The proposals on income tax have the potential to embed a long-term deflationary bias in Scotland's budget. We

estimate that they would have cost Scotland £8 billion since 1999. Under the proposals, the Scottish budget would also remain at the mercy of UK changes to tax policy and we would not have adequate levers to mitigate volatility in our budgets.

There are people who feel that the Treasury has long wanted to cut the Scottish budget and that the measures are effectively a trap amounting to budget cuts by the back door. The Scottish economy needs a Parliament with full financial responsibility and full economic, tax and benefit powers, but the bill fails to provide Scotland with any significant new levers to boost its economy. Responsibility for key taxes—including corporation tax, green taxes, fuel duty, North Sea revenues and excise duties—would remain outwith the Scottish Parliament's control, and around 80 per cent of Scottish revenues would continue to flow to the UK Government.

There are big unanswered questions about the costs to the Scottish budget in reductions to the block grant and in implementation and running costs. The command paper that was published yesterday sets out the uncertainties before saying on page 35:

“a definitive statement on the correct reduction to the block grant”

is

“inappropriate at this time.”

The UK Government's regulatory impact assessment says that accurate estimates of costs will not be available until implementation policies are determined, but gives indicative costs of £45 million for the one-off costs of setting up the systems in Her Majesty's Revenue and Customs, plus £4.2 million per year thereafter.

It is clear that the UK Government expects the Scottish Parliament to pick up the costs. The Scottish Parliament is thus being asked to agree to the proposals with, at present, no clear explanation of how the permanent reduction to the block grant would be calculated and with only indicative estimates of the implementation costs.

It is not entirely clear how long it will take to put the new financial measures in place. The command paper describes a phased approach. It says on page 25:

“there will be a period from 2016 for which transitional arrangements will apply.”

I suggest that, in considering the bill, the Parliament will want to have a clearer indication of what the transitional arrangements will be, over what period they will apply and whether it will be possible to adjust the provisions in the light of experience and any unintended consequences.

The bill deals with non-financial issues, too. We are happy to support many of them and, in broad terms, we welcome their inclusion in the bill. However, the Scottish Parliament will want to look closely at those provisions, particularly where they do not fully implement the commission's recommendations or leave important matters reserved. For example, the Scottish ministers would be able to set speed limits for cars on motorways, but not for heavy goods vehicles. They would be able to set drink-driving limits, but the Parliament would not be able to legislate to introduce random breath testing. The bill devolves control over some air guns, but the UK Government will be able to exclude “specially dangerous” ones. Responsibility for the regulations that govern Scottish parliamentary elections will be split between Scottish and UK ministers, perpetuating the complexity that was criticised by the Gould report on the 2007 elections.

There are other parts of the bill that we do not support. For example, the proposed additional reservations of matters that are currently devolved to the Scottish Parliament: the regulation of all health professionals and court procedures on insolvency. We believe that improved intergovernmental working, not the clawing back of control to Whitehall, is the correct way to ensure that there is proper integration of procedures across the UK. In those areas, and elsewhere, the Scottish Government has suggested improvements that could be made to the proposals to achieve the objectives of the bill more effectively or to provide greater benefit to the people of Scotland. I invite the committee to continue that consideration with us.

Some recommendations of the commission have not been included at all—for example, on welfare, the marine environment, the aggregates levy, air passenger duty, the Health and Safety Executive, immigration, food, research councils and animal health. The Scottish Government welcomes some of the omissions, particularly the proposed reservation of food content and labelling and charities law. On others, we are unconvinced by the UK Government's case for not proceeding. For example, the UK Government has cited its planned review of air passenger duty and the current European Union litigation in relation to the aggregates levy. We do not consider those reasons to be substantive barriers to devolving those taxes now.

As long ago as 2008, this Parliament passed a motion agreeing that Scotland should have responsibility for marine spatial planning, fisheries and marine nature conservation out to 200 nautical miles. The Scottish Government is therefore extremely disappointed that the bill contains no proposals to devolve legislative

responsibility for the marine environment beyond the 12-mile limit.

The bill contains no provision to take forward the devolved role in welfare benefits that was proposed by the commission. The UK Government command paper states that the specific proposals have been “overtaken by events”, but it promises a role for the Scottish Government in due course in aspects of the new benefits system. It is clear that this is a complicated area, which the Parliament will want to explore in detail. We regret that these and other recommendations are not addressed in the Scotland Bill, and invite the Parliament to consider whether that is justified.

I am confident that the committee will undertake full scrutiny of the proposals. Given the importance of these issues to the people of Scotland, we urge the committee to conduct as full an inquiry as possible and to look to wider Scotland for evidence in that consideration. The Scottish Government will support that process fully for the purpose of strengthening and improving the bill.

The Scottish Government invites the committee to begin its consideration of the Scotland Bill and accompanying paper and to report and make its recommendations to the Scottish Parliament. The Scotland Bill is an important matter for both this Parliament and the people of Scotland. Together, we can work to make this a better bill that is truly in Scotland's interests.

**The Presiding Officer:** The minister will take questions on issues that were raised in the statement. We have around 20 minutes for such questions.

**Pauline McNeill (Glasgow Kelvin) (Lab):** Yesterday was truly an historic day for devolution. The UK Government laid the statutory blueprint for our Scottish Parliament to have the most radical transfer of fiscal powers since 1707 and, crucially, set out the financial framework that will ensure that the Parliament is more accountable for what it spends. Does the Government agree that the accusation that we are a pocket money Parliament can no longer be levelled at the devolution settlement, because the Scotland Bill achieves a direct link between the political decision makers and the economy?

Will the Government publish the information that led to the making of the unfounded claim that, had the proposed plan been in place, Scotland would have lost £8 billion? Surely the test of the proposed new powers is how they are exercised by the Government of the day. Given that we will have control over 35 per cent of our own finances, the new arrangement can make a difference to ordinary Scots, and when it is coupled with our existing powers over education, skills and health, the renewed settlement is surely Scotland's future.

Scottish Labour is proud to have been centrally involved in making the bill happen, and we congratulate the Tories and the Liberal Democrats on their consensual approach. I welcome the approach that the minister has outlined, but can she assure me that she will join that consensus for the duration of the bill's passage? Does the Government welcome the fact that the Scottish Parliament will begin to acquire powers on borrowing to fund capital expenditure as early as 2013, which will be followed by the acquisition of fuller borrowing powers? Surely the Government acknowledges that that will have a huge impact on Scotland's finances and is best for the people of Scotland.

**Fiona Hyslop:** Pauline McNeill raises a number of points. I reassure her that by lodging the legislative consent memorandum and making a ministerial statement to Parliament the day after the Scotland Bill's publication, we have demonstrated that, as a Government, we will engage fully in Parliament's scrutiny of the bill.

In response to the member's questions on finances, I point out that although the bill proposals would improve accountability with regard to certain aspects of the Scottish block budget, only 15 per cent of Scotland's revenue would be affected. After the bill's implementation, 85 per cent of the revenues raised in Scotland would still proceed directly to the UK Treasury.

I most definitely welcome the progress that has been made on borrowing, which is one of a number of issues that we have raised consistently in the 14 meetings that we have had with the Treasury. I am sure that other questions will come back to that.

The member asks us to publish the information that we relayed about the deflationary pressures and the impact that would have been felt had the Scotland Bill proposals been in place since 1999, whereby we would have lost out on £8 billion-worth of investment. This morning, I and a number of other ministers have spent a considerable amount of time being questioned by parliamentary committees as part of their scrutiny of the budget. I say most politely to the member that the information in question was published as part of the budget documentation on 17 November and has been available for scrutiny since then.

**David McLetchie (Edinburgh Pentlands) (Con):** The minister's statement comes at a time when all the polls suggest that after nearly four years of a Scottish National Party Government, support for independence has slumped while public support in Scotland for devolution and enhanced powers for the Scottish Parliament within the United Kingdom has increased. That is what the Scotland Bill will deliver for Scotland, building on the work of the Calman commission,



which was set up on the initiative of the majority parties in the Parliament. I am proud of the fact that it is being taken forward by a Conservative-Liberal Democrat Government at Westminster, with very welcome support from the Labour Party.

In her statement, the minister talked—yet again—about full financial responsibility but, of course, Ireland has full financial responsibility and it is being bailed out by the UK Treasury as a result of pursuing the very policies that the SNP told us that we should adopt here.

The bill's publication marks the day on which devolution has won the argument, so will the minister confirm that not one penny piece more will be spent on the so-called national conversation, which has died a death? Will the SNP Government join the mainstream of Scottish public opinion and back the bill's general principles?

**Fiona Hyslop:** I think that somewhere in that question was a welcome for the Scottish Government's constructive attitude.

David McLetchie raised a number of issues. He questioned the benefits of full financial responsibility, but those benefits have been and will continue to be set out by the Scottish Government. He mentioned bail-outs. It is not as if the UK Government has ever had to be bailed out by anyone—however, I distinctly remember hearing about the International Monetary Fund in 1976 or so, although that was in my childhood. Of course, George Osborne has also put on record his support for the Irish approach to economic growth in the past.

The member raises an important point that comes to the nub of the issue, and which I hope the committee will address. There is a difference between accountability and responsibility for economic growth. As presented, the bill will shift the balance towards providing greater accountability.

The real challenge of where we can go with full financial responsibility and powers for the Parliament is in the economic growth test. Where would the benefits be? If the Scotland Bill restricts the Government's opportunities to collect taxes, or restricts it to collecting income tax alone, or if it restricts the higher rate of income tax and the benefit that we would get from it, that would not provide an incentive for economic growth.

Over the past 10 years, the greatest element of growth in revenues for the UK Government has come not from income tax, but from the plethora of other taxes. The previous UK Labour Government decided to restrict the amount of revenue that it received from income tax and saw growth in revenues from other areas. That is the pressure that is inherent in the Scotland Bill, and I urge the

committee to give full scrutiny to those aspects of it.

**Robert Brown (Glasgow) (LD):** The Scotland Bill was asked for by this Parliament in the resolution that it passed last year on the Calman commission report. It was supported at the ballot box in May by parties that represented 80 per cent of the Scottish electorate. Yesterday, the Secretary of State for Scotland said that it shaped a more confident Scotland and a more secure United Kingdom. However, all that we have heard from the First Minister and his ministers on the Scotland Bill is carping and nit-picking, denigration and sarcasm, and an extraordinarily muted welcome.

If Scotland had been independent these past two or three years, the loss to HMRC, in terms of all taxes, would have been £2.5 billion; I ask the minister to confirm that figure. Can the minister bring herself to welcome without qualification the generous borrowing powers that are to be made available to the Parliament? [*Interruption.*]

**The Presiding Officer:** Order. We do not need to hear other conversations, particularly from the front bench, if I may say so.

**Robert Brown:** Why was the minister's statement completely silent on an issue that could help to build the Forth crossing, pay for more schools, or support more investment in housing? Can the minister cast some light on the principles that she thinks should govern how much the Scottish Government could afford to borrow? Is it not time that the SNP Government recognised that Scotland has no magic bail-out in the real world, and that nations require to pay their debts and pay back their loans? Is it not time that the SNP Government began to speak for Scotland and for Scotland's interests?

**Fiona Hyslop:** We are delighted to speak for Scotland's interests and to support any measure that improves the lot of the Scottish people. That is why I said quite deliberately in my statement that we welcome a number of the aspects of the proposals in the Scotland Bill. We probably welcomed more of the commission's original recommendations than did the previous UK Government in its white paper.

The member raises an important point about borrowing. I agree that it is very important, particularly because we are facing a 36 per cent reduction in our capital over the next few years. I recognise the importance of responsibility in borrowing, which is why I am concerned that the borrowing limits that are proposed by the UK Government's bill would provide for less borrowing for capital spend than the Scottish Government provides annually. The Government has already made £3 billion investment in capital on an annual

basis. The £2.2 billion that is to be provided under the bill's proposals is less than we provide in one year, but it is still welcome.

On being able to pay for that investment, the powers and restrictions in the Scotland Bill would mean that the Scottish Government would be more restricted in borrowing than local authorities, which have far more provision for prudential borrowing and what they can pay for.

On the question of amounts, in 2006, Birmingham City Council raised £260 million in bonds and other things that are not available to us; under the Scotland Bill, this Government would not be able to do that.

I welcome the provisions for borrowing, although they can be improved, and I look forward to working with the member to ensure that we can do that.

**The Presiding Officer:** We come to open questions. We have less than 10 minutes, so please keep questions and answers short.

**Kenneth Gibson (Cunninghame North) (SNP):** I welcome the statement and the extension, however modest, of additional powers to Scotland. Sadly, it still means that the Scottish Parliament post Calman will have fewer fiscal powers than Jersey, Guernsey or the Isle of Man, such is the lack of trust and faith that the unionist parties have in the Scottish people. Does the minister agree that it is deeply disappointing that, while Northern Ireland, with a third of our population, has borrowing powers of £3 billion, Scotland will be limited to the £2.2 billion in capital that she has mentioned and £500 million in cash, only 10 per cent of which can be drawn down in any given year—a restriction that is not applied to Scottish local authorities?

**Fiona Hyslop:** The member reflects on a number of points that I raised in reply to Robert Brown's question. I will meet midway: I think that there are possibilities in the borrowing. We welcome the fact that there has been a shift in thinking that has allowed the borrowing provisions to be in the bill. More can be made of the borrowing powers, and we should scrutinise them carefully.

**Ms Wendy Alexander (Paisley North) (Lab):** I welcome the minister's comments in her statement that the Scottish Government will work constructively to assist the committee and that the Government's aim is to support the Parliament in the thorough scrutiny of the proposals. Given those undertakings, the special constitutional character of the bill and the fact that its implementation will continue over at least two further sessions of Parliament, will she agree to make the chief economic adviser and the experts in finance and economics in St Andrew's house

available to support directly the work of the committee and to provide any economic advice or modelling work that the committee might wish to undertake in the interests of Scotland? Making available—

**The Presiding Officer:** I must hurry you.

**Ms Alexander:** Making available expert independent advice with no strings attached is a test of the Government's commitment to proper scrutiny in the interests of Scotland.

**Fiona Hyslop:** I certainly do not want to pre-empt the scope of the committee in establishing the evidence that it wants to take, and I do not want to usurp the role of the Parliament in deciding what support it gives to the committee or to pre-empt the support that the Scotland Office might give. However, we will consider the member's proposals once the committee has met and set out the terms of its inquiry and the areas that it wants to discuss.

**Michael Matheson (Falkirk West) (SNP):** The minister will appreciate that the powers to grow Scotland's economy are essential. Does she therefore share my disappointment at the comments made earlier today by the Secretary of State for Scotland when he ruled out the possibility of further tax powers being included in the bill, including power over corporate taxation? Will the minister press the London Government to ensure that it improves the Scotland Bill so that it includes the powers that are necessary to promote economic growth?

**Fiona Hyslop:** I have not heard the secretary of state's remarks. On corporation tax, I would be disappointed that he is ruling out so quickly any proposal that might come from the deliberations of the committee once it is established. He should reflect on the terms in the Scotland Bill. There are some clauses that could be interpreted as enabling future transfer of powers, but we will need further scrutiny on that. Indeed, I should make it clear that although we have lodged a detailed legislative consent memorandum today, there will be opportunities for supplementary information when some of the terms of the provisions, which were published only yesterday, are looked at and clarified properly.

**Peter Peacock (Highlands and Islands) (Lab):** The minister was critical of the cost of tax collection arrangements under the current settlement. To allow proper comparison of the UK proposals, will she set out fully for Parliament and publish details of how much it would cost to initiate a collection system and an enforcement system in Scotland under the Government's proposals for greater fiscal autonomy?

**Fiona Hyslop:** It is important that we encourage the committee to consider all aspects of fiscal

responsibility—or fiscal autonomy, to use Peter Peacock's phrase. If the committee chooses to examine all the aspects, I think that it will be good for the Parliament to conduct a thorough scrutiny and make a comparison of the opportunities and costs of the different systems that could be set out under the proposals in the Scotland Bill, for full financial responsibility and for other provisions, such as independence. I hope that there is an opportunity for the Parliament and the committee to consider all aspects: pros and cons, costs and opportunities.

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

Given the Government's new-found concern about the volatility of income tax revenues, can we take it that the Government will not bring back to the Parliament any proposals to replace the stable council tax with the volatile local income tax? Not, of course, that it had the guts to bring those proposals to the Parliament in the first place.

**Fiona Hyslop:** That was unusually churlish from Mr Brownlee. He raises an important point about volatility. The prudential borrowing arrangements for local authorities allow some stability of planning for them. On the volatility of income tax, a central element of the Scotland Bill would allow borrowing of up to £500 million a year to address the volatility of forecasts from the Office for Budget Responsibility but would not allow for borrowing to counter volatility in income tax receipts in relation to global market changes. That is a central point. I hope that Mr Brownlee will join me in encouraging the parliamentary committee that will scrutinise the bill to examine the question of volatility thoroughly.

**Nicol Stephen (Aberdeen South) (LD):** Does the minister agree that this is the most radical transfer of new powers ever from Westminster to the Scottish Parliament? The Calman commission, supported by the Scottish Parliament and the UK Government, was consistently criticised and opposed by the SNP but it has now delivered change on a scale that was, frankly, unimaginable back in early 2007. Does the minister agree that the new tax and borrowing powers are crucial to the growth of the Scottish Parliament, and does she recognise that the new powers are strongly supported by a large majority of people in Scotland? The Liberal Democrats strongly support those measures and will strongly support the bill. My simple final question is this: will the SNP vote for the bill or against it?

**Fiona Hyslop:** Nicol Stephen asks a number of questions. We have supported many of the non-financial aspects for some time. Indeed, we drafted legal provisions that could have been implemented by order in council and gave them to the previous UK Government some time ago. On the financial aspects, he talks about the tax proposals as being radical; however, the problem

with the tax proposals is that they are not radical enough. They might provide accountability but they do not provide responsibility in relation to achieving economic growth.

If the test for the bill, at a time when we are coming out of a recession, is what it does to protect jobs, to improve economic growth and to protect the interests of the public services that we rely on, the bill as it stands will fail. We must improve the bill to ensure that Nicol Stephen and I can join in welcoming a provision that will really make a difference to the people of Scotland. Once the parliamentary committee has thoroughly scrutinised the bill and we can resolve some of the challenges that we have laid out in our memorandum, the Parliament will be in a better place to support the bill.

**Patrick Harvie (Glasgow) (Green):** If the Government wants to argue for more and better powers for the Scottish Parliament—either the powers in the bill or an improvement on them—surely, we must say what we would use those powers for. Is it not about time that we put an end to the great lie that has dominated UK politics for decades, that we can have European-style public services and pay American levels of tax? Does the Government not have a responsibility to use existing powers to end that lie if it wants to be taken seriously on the case for more powers?

**Fiona Hyslop:** One of the questions that I frequently get asked—I have been asked it in the past few weeks—is how the Government has managed to provide for services such as the abolition of tuition fees, the cuts in prescription charges and the provision of more police officers within the powers that we already have. We have done that by effectively and competently providing for public services using the resources that we have. The member is correct to look at that analysis, but there are two sides to it. We must be responsible with the taxes and the levers that we have, but we must also deploy them effectively to improve the economy.

That brings me back to my central point. There are different ways to produce and provide for sustainable economic growth—I know that the member has a particular perspective on that. If we are to pursue sustainable economic growth, we need all the levers of power; then, across a range of areas, not just in a limited, one-tax solution of income tax, we can truly serve the people of Scotland.

**The Presiding Officer:** I apologise to the member whom I was unable to call, but we must move to the next item of business.

## Fisheries Negotiations

**The Presiding Officer (Alex Fergusson):** We come to the next item of business, which is a debate on motion S3M-7498, in the name of Richard Lochhead, on the annual fisheries negotiations.

14:35

**The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead):** I am pleased to open our annual fisheries debate, as we approach the end-of-year negotiations. At this moment, my officials, along with our fishing leaders, are in Bergen, working together to represent Scotland at key European Union-Norway negotiations. I record my appreciation—and no doubt that of the Parliament—for the role played by our fishermen and the huge contribution that the wider industry makes to Scotland in economic terms and by bringing some of the world's best seafood to our tables.

Our fishermen work in some of the harshest conditions and, every year, some of them make the ultimate sacrifice doing the job that they love. The industry has to put up with everything that is thrown at it by distant regulators, commentators and, dare I say it, politicians. Despite the challenges, the value of sea fisheries in Scotland rose by 10 per cent last year and is now worth £443 million to the Scottish economy. Last year, 74 per cent of Scotland's key commercial fish stocks were set in line with scientific guidance. That compares with only 40 per cent in 2001.

The Scottish industry has a reputation for being the most innovative and conservation oriented in Europe. Society needs fishermen to play a greater role in fisheries management and conservation—to demand not just the right to fish but the right to conserve. It is clearer than ever that we cannot achieve sustainable fisheries in Europe until we reform EU fisheries management. The biggest indictment of the common fisheries policy is surely the discarding of huge amounts of marketable fish. We all agree that the CFP is now a busted flush. Fishermen, politicians, scientists and environmentalists such as WWF Scotland and RSPB Scotland are all now speaking with one voice to Brussels. The CFP has failed Scotland, society and our environment.

We are all now united in a serious attempt to bring an end to discards. Last year, action by Scottish fishermen and the Government reduced discards of North Sea cod by one third—an achievement unmatched by any other European fishing nation. That illustrates Scotland's determination to reduce discards. It is galling, therefore, that one third of cod caught in the North

Sea is still discarded. That is more cod than can be legally landed by our vessels. That dreadful waste is a by-product of the common fisheries policy and the failure of the cod recovery plan, which also needs radical surgery and is extremely ill-suited to the mixed fishery that we have in Scottish waters. Under the cod recovery plan, all member states will suffer cuts regardless of their contribution to reducing mortality. That is wholly unacceptable. Scotland's sacrifices should be recognised. That is what we seek in this year's negotiations.

A further unworkable flaw in the cod recovery plan is the days-at-sea regime, which we have sought to mitigate over the past three years. Effort limitations only really impact on around 150 of Scotland's 1,500 vessels. Another 300 affected vessels have a sufficient effort to allow them to fish as before. However, for those affected, the restrictions are unfair and counterproductive. Most of all, fishermen should be allowed to land more of what they catch and should not be forced to discard it.

Thankfully, a few Governments, including those in Denmark, Scotland and the United Kingdom, are working together to establish a system that can stop that disgrace—a system in which a fully documented fishery incentivises fishermen to avoid discarding. In return, they are free from the restrictive effort limits and are awarded a higher quota. Removing discards from the equation means that we can reward vessels with higher landings for removing fewer fish from the sea in the first place. It is a rare win-win situation in fishing management. Successful pilots have been run in Scotland and Denmark and more are planned or are under way in the UK, Germany and the Netherlands.

At the ministerial conference that I hosted in Aberdeenshire on 1 October, North Sea states including, significantly, Norway welcomed and promoted catch quotas as a means of reducing discards, improving stocks and helping fishermen.

The roll-out of catch quota systems is a key priority for this year's negotiations, although it is not a magic bullet and will not solve all the difficulties. Any country that wants to adopt a regime that prevents discards and reduces mortality should be allowed to do so, and should not have to give something back in return for the privilege.

We all know that some sectors face tough times. On the west coast, demersal fisheries have experienced a prolonged period of very poor recruitment. It is clear that there is no scope for a directed cod and whiting fishery in the west of Scotland, which is now a fishery that is dominated by nephrops.

We propose to set a zero total allowable catch for west of Scotland cod and whiting fisheries, with a small allowance for bycatch of those stocks, and we are working with the industry on that at present. Our proposal will prevent the targeting of those very vulnerable stocks while reducing discards.

Much has been said about the scientific advice that has led to the European Commission proposals this year. It has been criticised by fishermen and scientists alike, and where we believe there are strong reasons for questioning the science, we will do so and are doing so.

For example, we will oppose cuts for west coast monkfish and megrim. Recent data indicate that a 15 per cent increase in west coast megrim is justifiable, and we must optimise the sustainable yield on those highly valued stocks. The west coast fishermen have few other white-fish options available.

We must ensure that we do not lose focus on the current impasse on mackerel, which is Scotland's most valuable stock. The opportunistic behaviour of Iceland and the Faroes has been condemned far and wide, and Scotland has been the loudest voice. A solution will not be easy, but we will keep our nerve and ensure that the outcome does not compromise the viability of the Scottish fleet. I discussed that issue and others this week with UK ministers—and today with Norwegian ministers—as well as with the European Commissioner for Maritime Affairs and Fisheries.

We will work as hard as we can to secure the best sustainable fishing opportunities that are available for Scotland at this year's negotiations. The key issue is that Scottish fishermen should come away with some reward for their many achievements this year. We have led by example and we deserve to secure a good future for Scotland's fishing communities. That is what we will set out to do at this year's vital annual negotiations.

I move,

That the Parliament notes efforts to secure a fair outcome in the forthcoming EU fisheries negotiations; believes that any deal must respect the need to harvest fish stocks sustainably in the interests of Scotland's fishermen and coastal communities and recognise Scotland's fishing industry's contribution to fisheries conservation, and urges the European Commission to support efforts to reduce wasteful discards.

14:42

**Karen Gillon (Clydesdale) (Lab):** It is December, so it must be the annual fisheries negotiations debate. We on the Labour benches wish the cabinet secretary and his UK

counterparts well as they take part in those difficult negotiations and seek the best possible deal for the Scottish fleet. I join the cabinet secretary in paying tribute to those men and women who day and daily risk their lives to bring that high-quality product to our shops, restaurants and tables.

Only last week our colleague, Alasdair Morgan, brought home to us the real tragedies that the fleet has faced in recent years when he spoke again about the Solway Harvester tragedy. It has been refreshing to see how the responsibility of government has mellowed the cabinet secretary's tone and actions in recent years. We on the Labour benches know that continuing to deny the science was not in the long-term interest of the viability of the Scottish fleet. It was not a particularly popular position, but it was an honest one. The stocks needed time to recover from years of overfishing and we welcome the progress that has been made in the years that have passed.

We knew in the years gone by that decommissioning was the right thing to do. We were derided for it, but we welcome the decommissioning scheme that the cabinet secretary has developed in recent months. Where do we go from here? Perhaps all the snow has affected my mind but I think that, when we strip away the rhetoric, there is more that unites us with than divides us from the cabinet secretary on these issues. Ah, the responsibilities of government. Perhaps when the cabinet secretary returns to the Opposition benches next year he will remember that opposition can be a responsibility too.

I turn to the areas of agreement. There is no doubt that the CFP must be reformed nor any disagreement about that, and I think that almost all members in the chamber would support regional fisheries management and decentralisation. The devolution of as much of the decision making as possible makes absolute sense. We welcome the work that has been done and the progress that has been made in that regard.

Another area of consensus is the need to end the practice of discards. We all find it wasteful and counterproductive, yet we have singularly failed to find a solution that the industry, the non-governmental organisations and the EU can all sign up to. I know that the cabinet secretary is keen to move to a system whereby fishermen can land all that they catch, but Bertie Armstrong said just this week in *The Press and Journal* that adopting such a scheme over the top of the present scheme would be a "suicide pill" for the industry. Others, such as WWF, say that we need to fish less but make better use of the fish.

I ask the cabinet secretary to clarify a couple of points on the scheme that he is pushing forward with. If fishermen land all that they catch, what

impact will that have on the price that is achieved at market? Does the cabinet secretary have any concerns about that or about the impact on the wider fishing community and other sectors? He mentioned catch quotas. Does he believe that Europe would allow us to have no reduction in the total allowable catch—that we would simply be allowed to land everything that we catch and that there would be no repercussions from Europe, with no quota reduction? Is that his position, or is he negotiating on the basis that there would be a reduction in quota for those boats that were allowed to land everything that they catch? Maybe he could clarify that when he sums up, because those are important points.

There are clearly concerns about the cabinet secretary's position. People in the industry said in *The Press and Journal* this week that they have concerns and it would be interesting to know exactly what the cabinet secretary is saying.

**The Presiding Officer:** I must hurry you.

**Karen Gillon:** Our amendment seeks some indication from the cabinet secretary of what other support he will provide to fishing communities in the months to come. I ask him, when he sums up, to clarify what support packages will be available over and above what he has already mentioned.

I move amendment S3M-7498.3, to insert at end:

“, and calls on the Scottish Government to work closely with fishing communities to provide meaningful economic support to help mitigate the impacts of the current round of fisheries negotiations.”

**The Presiding Officer:** I apologise; I got your timing slightly wrong. However, it is quite handy to have a little extra time. I am sorry about that.

I call John Scott to speak to and move amendment S3M-7498.1. Mr Scott, you have four minutes.

14:47

**John Scott (Ayr) (Con):** Thank you. Is that an exact four minutes, Presiding Officer? [*Laughter.*]

I declare an interest as a council member of the Scottish Agricultural Organisation Society.

As ever, our Scottish fishing industry appears to be in crisis. Forty-one boats are to be tied up, the Icelanders and the Faroese are catching our mackerel, the Isle of Man has restricted access to its scallop fisheries, and we are still discarding more cod into our seas annually than we actually land. I note the cabinet secretary's analysis. I support much of what he is doing and I wish him and Richard Benyon every success in the forthcoming negotiations, but the question is where we go from here.

In the longer term, we have to start addressing some of the structural weaknesses in our fishing industry that are holding back its development and preventing it from being a much stronger industry than it is at present. Notwithstanding the problems of the pelagic and nephrops sectors, the biggest problem area appears to be our mixed white-fish sector. It seems to me that we should start in the sector where the problem is the most obvious, and I venture to suggest that part of the solution to the various problems lies in the hands of the fishermen themselves.

In real terms, the Government's four-pillar plan is a good starting point. The key element is catching for the market. The lack of trust, collaboration and communication in the supply chain is hugely damaging the end price that fishermen receive for the fish that they catch, as are the lack of standard box weights and the lack of co-ordination of landings. Our fishermen are weak sellers as primary producers in a buyers' market. I say that not from a theoretical perspective but from a viewpoint of bitter experience I have seen at first hand the self-same problems in agriculture, and that allows me to see the problems in our white-fish industry.

Building cohesion and trust in the industry and controlling and delivering for the market would add value to our fisheries product and, importantly, reduce discards. If all that was caught was landed, the industry could again hold its head high. We all agree that the current discarding and high-grading practices cannot continue if our fishing industry is to be regarded as truly sustainable in the future. Catch quotas alone are not the answer. Better and more sustainable fishing practices might encourage UK buyers and supermarkets back as mainstream buyers of our Scottish products. What a prize it would be if European buyers were competing on real terms with our major UK retailers for the same product.

There is much to be done. The Governments in the UK, Scotland and Europe must get the policy right this year and reform the CFP for the years ahead. That said, our fishermen need to be brave and bold not just, as Karen Gillon pointed out, in their work and the hardship that they face on our seas but in the business initiatives that they take. If, as seems likely, we have more regional control, with producer organisations ultimately given more responsibility for the management of our seas, integrated and collaborative supply-chain management will provide a real opportunity for POs to work together better in the new post-2012 climate not only to deliver but to add value to basic quayside landings. Such models already exist. In the farming industry, for example, the Scottish Agricultural Organisation Society has developed and delivered for those who wish them models of collaborative supply-chain marketing and

management through large-scale co-operative ventures.

I passionately believe that the current difficulties present an opportunity for our fishermen, if they have the courage and skill to grasp it. They can rest assured that our party will help in whatever way it can.

I move amendment S3M-7498.1, to insert at end:

“, and calls on the Scottish Government to work with the fishing industry to develop better supply chain management.”

14:51

**Tavish Scott (Shetland) (LD):** Liam McArthur is snowbound. There is no problem in Kirkwall or Sumburgh—it is the central belt airports that seem to be struggling with winter. As a result, though, I have the pleasure of contributing briefly to this debate and moving Mr McArthur's amendment.

Given that fishing is worth a couple of hundred million pounds to my Shetland constituency and employs hundreds of people, no December for me is free of the agonising wait for the outcome of the EU fisheries council. In that sense, I want to highlight two points to the cabinet secretary. First, on the international mackerel talks that will resume next week, Iceland has, as he has pointed out, acted quite wrongly in prosecuting a fishery for which there is no agreed quota, to the detriment of the Scottish fleet. I understand that the Faroes is now demanding double its agreed 4.6 per cent allocation and I ask, and indeed expect, the cabinet secretary to confirm that there is no way that his Government will sign off any such figure. This very morning, the industry told me of its worries about the Scottish negotiating position and the precise percentage that is being considered. Pelagic boats from Shetland to Peterhead and Fraserburgh expect the Government to stand on their side, as do I and this Parliament, and there can be no deal that rewards Iceland and the Faroes for their irresponsible behaviour. Indeed, I recall that when the cabinet secretary's predecessor was involved in similar international discussions and negotiations over fishing stocks, Mr Lochhead constantly used the word “betrayal”. It is obviously a case of what's good for the goose.

Secondly, on the 2011 fishing opportunities for Scotland's white-fish boats, the cabinet secretary rightly mentioned the second round of EU-Norway negotiations, which got under way today in Bergen. The prospect for Scotland's white-fish fleet gives greatest cause for concern, and boats, processors and shore-side businesses face a truly awful 2011 if the European Commission's quota proposals are agreed. Like Karen Gillon, I find the cabinet secretary's tone somewhat different and

more encouraging than it was during his many years in opposition but, as he will certainly understand, at this stage any quota reduction is simply a negotiation or, as the Commission sees it, an opening gambit. Is he able to outline to Parliament the areas where he will argue for change and what those changes will be?

Will the cabinet secretary also allay fears heightened by Commissioner Damanaki's comments last month about the Commission's scepticism over the Scottish Government's policy of introducing a new initiative every year? Fishing skippers around Scotland have pointed out that our boats have had conservation credits, cod avoidance trawls, on-board closed-circuit television and now catch quotas, each of which has been cited as a panacea for the industry's future. However, as John Scott rightly observed, 41 more Scottish boats are being decommissioned. Many skippers have asked me why, if these policies are working, we are losing men, boats and experience from the Scottish industry.

If I understand him correctly, the cabinet secretary's Government is now basing its 2011 fisheries policy on catch quotas. He is right that we should tackle discards, but we say no to a so-called perfect fisheries control system that locks down an imperfect management regime. The Scottish Fishermen's Federation has said that without a fundamental overhaul of the single-species approach to mixed fisheries, catch quotas amount to a “suicide pill”. I agree and I hope that the cabinet secretary does as well.

Most of the 17 boats involved in the catch quota trial this year are now fishing only by renting extra quota. The system is not flexible and it cannot cope with in-year changes. The industry has also told me that it will not reduce costs to skippers and boats. Therefore, it must be reconsidered. That is why our amendment states that the catch quota proposals can be progressed only with full and active consultation with Scottish skippers and boats.

The industry is concerned that Government policy is a one-trick pony—or possibly a one-net boat. Mr Lochhead rightly used to condemn the former European commissioner Franz Fischler for his obsession with cod, but the industry believes that Mr Lochhead is in danger of making exactly the same mistake. I urge him to drop the proposals unless he can change the management system. He and I agree that that system does not work.

This year looks tough for Scottish boats. I urge the minister to look at the proposals, drop those that cannot work and work with those that can.

I move amendment S3M-7498.2, to leave out from “and urges” to end and insert:

“; expresses concern at the significant cuts to effort and quotas for key stocks being proposed by the European Commission; urges the Scottish Government to take forward its catch quota proposals only with the full and active involvement of the Scottish fishing industry at every stage, and calls on the European Commission to support these efforts to reduce wasteful discards.”

14:55

**Maureen Watt (North East Scotland) (SNP):** I welcome this annual fisheries debate, which is an opportunity to send the cabinet secretary to Brussels with MSPs’ comments and good lines of argument ringing in his ears.

It is regrettable that, by announcing new quota proposals to the media before the industry had sight of them, the new commissioner, Maria Damanaki, has not covered herself in glory. That is not a good basis on which to start negotiations.

How much we as a nation admire the bravery of our fishermen in undertaking such a hazardous job to bring fresh fish to our tables and to export high-quality products overseas can never be overstated. That is why the general public cannot understand why fishermen who catch good, edible fish have to discard them overboard because they cannot be landed as a result of quotas. The horrendous situation in which tonnes of good fish are discarded by fishing vessels is a direct result of the EU’s common fisheries policy being based on landing quotas rather than catch quotas.

The land more, catch less approach is a relatively new approach that is being pioneered in Scotland. With the right monitoring, it is possible to know exactly how much of a fish stock, including in mixed fisheries, is being removed from the sea. The need for effort restrictions can therefore be reduced. It is a win-win situation: fish mortality is reduced and fishermen are able to raise the value of the stock that they land by being awarded increased quotas for their compliance with the scheme. The technology is available to create a fully monitored fishery that not only gives fishermen a chance to demonstrate their compliance with regulations but creates a significant wealth of evidence on the health of fish stocks that can be pointed to in negotiations. It will also give a wealth of evidence to those in marine research. Given the cuts in budgets, it is obvious that there will have to be work with the industry in the future.

Scotland has demonstrated that a catch quota system of management can be successful. The EU now needs to back that system and take action to significantly expand its availability. The industry here has rightly received international plaudits for its ground-breaking conservation measures. It is

imperative that the rest of the EU acknowledges those efforts and the need for change in practice, but the EU steadfastly refuses to see that as a basis for negotiation. It is right that the Scottish Government is putting catch quotas at the heart of our negotiating priorities, but without our own voice in negotiations, it can only be hoped that the UK Government fully understands just how important a priority they are. Given the way in which the Lib Dem-Tory Government at Westminster attempted to drop the annual fisheries debate, it is difficult to have much confidence in it.

There is no better document for the cabinet secretary to have in his luggage than “The Future of Fisheries Management in Scotland: Report of an Independent Panel”. We ought to thank Alan Campbell and his team for producing it. Among other things, it urges urgent reform of the CFP and recognises that Scotland, as a pre-eminent fishing nation, should be taking the lead in new methods and new trials.

Times have changed. Fishermen are no longer able to catch as much as they want, but we now see non-governmental organisations and the fishing industry working together. We wish the cabinet secretary well in his efforts to continue to back and get the best deal for our fishermen.

15:00

**Peter Peacock (Highlands and Islands) (Lab):** I confess to continuing to get a feeling of déjà vu all over again, as the annual debate continues. Many fish stocks remain challenged, as they were last year; CFP reform remains eternally slow; we still have problems with sand eels and their interaction with sea birds; and the economics are still difficult, and are exacerbated by the recession.

If there are changes from the situation last year, they have brought only more challenges, as members have said. Tavish Scott touched on the unilateral action of Iceland and the Faroes to take far more stocks than they ought to, without any agreement. Such unilateral action is, clearly, unacceptable, and this Parliament needs to make it clear that it stands with the minister in stating that view. To plunder a stock that is enjoying comparatively good health, in part because of the action of the fishermen in Scotland, is not to be tolerated. Although I accept that, as the minister says, there must be a negotiated settlement to such matters, we must be careful not to overly reward such unilateral action, or we will simply encourage it to happen again and again.

The rate of decline is another aspect that changes from year to year, as is the rate at which stocks recover. Those changes continue in this year, but the stocks still remain in decline, with the



exception of mackerel and herring. That implies that there will be, yet again, a lower quota across the board. In the North Sea, there could well be reductions of 20 per cent for cod, 5 per cent for haddock, and 15 per cent for whiting. On the west coast, the quota for cod, haddock and whiting could be down by 25 per cent, and the quota for langoustine could be down by 15 per cent. The minister believes that that decline in the langoustine quota is manageable, but it is still a decline that might constrain that fleet when the recovery from the recession comes.

Rightly, all of the decisions about quotas are rooted in science and the measures that are agreed have to manage the necessary change. I urge the minister to continue to press ahead with the technical improvements that have taken place in fishing, the real-time closures and the conservation credits, as well as the catch-and-keep scheme that will be developed. Equally, he should urge the EU to urge other member states to take the same kind of actions as the Scottish fleet has been taking in recent years.

The other change that I welcome, to which other members have referred, is the continuing refinement of the minister's position. His revelation to the committee that Scotland's future is no longer volume fishing but, instead, quality was perhaps no more than a recognition of the reality of the science and the interaction of that science with the economics of the industry, but then this is the year in which Richard Lochhead introduced a scheme to decommission boats. I have asked myself, "Is this the same Richard Lochhead who would have died in a ditch to oppose decommissioning schemes or any notion of the volume of fishing being reduced?" Indeed, I seem to remember that, when he was in opposition, Richard Lochhead went to Brussels at least once during the fishing negotiations to demonstrate against the very proposals that he has now introduced. As Karen Gillon said, it is remarkable what a dose of the realities of government can do. Nevertheless, I very much welcome his move towards a position that we have held for many years.

Whatever the background, it is in the long-term interest of us all to have a sustainable and secure fishery. Successive UK Governments have sought that in the past and they will seek it again this year, along with the Scottish minister. I wish them well in those discussions. We will be listening closely to what is said and watching closely to see what the outcomes are.

15:04

**Jim Hume (South of Scotland) (LD):** There is, clearly, an impressive appetite for seafood, and a number of markets that the Scottish seafood

industry would be able to exploit. As the cabinet secretary said, Scottish seafood exports are worth around £500 million a year. It is clearly an important industry, and there is a clear need for a fair settlement for Scotland's fishermen in the upcoming negotiations.

The European Commission's proposal for fishing opportunities in 2011 is concerning, particularly with regard to Scotland's key commercial species. Our fishing industry understands the need to have a sustainable relationship with the environment, which is why the Scottish fleet is one of the most responsible in Europe. I am glad that we have in the Parliament unanimity regarding discards. There are concerns over proposed cuts for prawn quotas in the west coast of Scotland and the North Sea, and we face cuts in quotas for west coast haddock and cod of 25 per cent and 50 per cent respectively. Those are extremely serious proposals that would have a significant impact. Our fishing industry must be protected and made sustainable to ensure that it continues to thrive.

About a quarter of the labour force operates from the fishing port areas of Peterhead and Fraserburgh. When the port districts of Aberdeen and Buckie are included, the north-east contains about 32 per cent of the total labour force and lands about half of the fish. Only three other port districts have more than 500 fishermen, one of which is in Ayr. In my region, Ayrshire is an important fishing area, as is Berwickshire. Only the port at Fraserburgh employs more fishermen than that in Ayr. Unfortunately, both Ayr and Eyemouth in Berwickshire have witnessed a drop in the number of fishermen operating out of their harbours. To emphasise that, I point out that, in Ayr alone, 118 fewer fishermen were employed in 2009 than in 2007.

The past 10 years have been characterised by alarming drops in the value of landings, with only some modest year-on-year increases. It is little wonder that the 2007 labour force was approximately half that employed back in the 1970s; that the number of people employed in the catching sector in 2009 dropped to an historic low of 5,409; and that the current figure of 2,174 fishing vessels is the smallest fleet size ever recorded. We must ensure that fishermen can plan for their future. Trawler skippers run small businesses, and what business owner would envy them the task of continuing to operate when they are unable to make long-term projections on turnover? That is why I welcome the comments of the UK fisheries minister, who said in June that any reform of the common fisheries policy should

"Enable and encourage fishermen to better plan for their businesses for the long-term".—[*Official Report, House of Commons*, 23 June 2010; Vol 512, c 264W.]

It was appropriate that the cabinet secretary had the opportunity to speak on behalf of the UK delegation regarding the quotas for the Faroe Islands and Iceland at September's agriculture and fisheries council.

The UK Government has been proactive in engaging with the relevant stakeholders in the fishing industry in the past few months. Only last week, the fisheries minister met Alistair Carmichael MP and representatives of the Shetland fisheries group SHOAL—the Shetland oceans alliance—and has committed to visiting Shetland in the new year. The Secretary of State for Scotland, Michael Moore, also recently met the Scottish Fishermen's Federation to discuss the challenges that the industry faces. I understand that the fisheries minister is in regular contact with the Scottish Government. Obviously, Maureen Watt is not aware of that.

The negotiations are vital not just for our fishing communities, but for Scotland as a whole. I remind all who are involved that at the heart of the negotiations must be the communities that are involved in the industry and which, every day, take financial and human risk to put fish on our plates.

15:08

**Dave Thompson (Highlands and Islands) (SNP):** I am afraid that I am going to disappoint Karen Gillon, although I see that she has left the chamber.

**Karen Gillon:** No, I have not.

**Dave Thompson:** Sorry—I did not see the member at the back there.

The annual decisions on fishing quotas are based on the advice of the International Council for the Exploration of the Sea, with little input from the men at the sharp end, our fishermen. The science is unreliable and, in areas such as the west coast, almost non-existent. John Hermse, the secretary of the Mallaig and North West Fishermen's Association, told me this week:

"Fishermen don't mind being told they have to catch less if they can see this is based on a sound scientific rationale, but there are too many mistakes in the advice coming from the scientists. ICES has made numerous errors but, even when these are discovered, there is no recalculation of the stock levels, and the quota calculation based on the incorrect evidence is allowed to stand."

John's members, who represent the bulk of Scotland's west coast fleet, have reported more whiting, cod and hake than ever before in the waters off the west coast, yet we are to get a zero quota for cod.

The size of the fishing fleet in Mallaig today—at just 20 boats—is less than half that of just a decade ago. The fleet is being squeezed further

by the so-called emergency management measures that have been in place since 2009. Those measures unfairly preclude our fishermen from diversifying into the sustainable harvesting of other species such as squid and queen scallops and cause discards of dogfish, because there is no dogfish bycatch allowance.

Earlier this year, the cabinet secretary and I had a good meeting with west coast fishermen. The cabinet secretary agreed to take back several issues for further consideration, including creel management, marketing of prawns, crab and lobster and possible displacement because of offshore renewable energy developments and marine protected areas. The meeting was robust but useful. The cabinet secretary also promised to look into initiating research and sea-going trials into the viability of a west coast squid fishery. Is he in a position to tell us where he is on that?

The big problem is discards, as has been said. It is good to note that Hugh Fearnley-Whittingstall's fish fight against that terrible waste has recognised that the problem is bad regulation through the CFP. That is refreshing as, until now, the problem has always been laid at the door of fishermen by the bureaucrats who manage the CFP. As Bertie Armstrong—who has been quoted today—said last week:

"We have been innovating with selective nets, making sacrifices in support of closed areas and rationalising the fleet but this has not resulted in any significant changes in the approach of the European Commission—almost the reverse."

As the cabinet secretary said, review of the common fisheries policy is long overdue. I am pleased to note that bodies such as WWF Scotland and the RSPB have joined our fishermen and the Scottish Government in calling for regionalisation of fisheries management. WWF says that the reduced fishing opportunities for 2011 demonstrate the strong case for reform of the CFP in 2012, and that the CFP has an overcentralised, top-down, complex and short-term approach to fisheries management that leads to an imbalanced marine environment, depleted fish stocks and alienated stakeholders. I could not agree more.

Regionalisation would allow proper long-term management of our fisheries and would let the Government, scientists and fishermen in Scotland develop a system that was sensitive to local needs and which balanced all the competing demands on a modern fishery. Let us make that our top priority for 2012.

15:12

**Elaine Murray (Dumfries) (Lab):** I get the impression from other members' speeches that they, too, have struggled to find something new to

say in this annual sea fisheries debate. I looked at my speeches from the past two years and it would have been easy to rehash one of them, but I have resisted the temptation to do so. The reason for that situation is that the subjects of agreement do not change—they are the fishing industry's importance to Scotland and particularly to some of our coastal communities; the need to manage the industry sustainably; the need to conserve stocks and the industry; the need to reduce discards; and the need to reform the common fisheries policy substantially.

The subjects of disagreement do not change much from year to year, either. Arguments always arise about the validity of the science; whether it is possible to reach maximum sustainable yields for all stocks by 2015; and how mixed fisheries can be managed when some species' populations are in good shape while those of other species are not, which often leads to the problem of discards.

It is clear that the marine environment is complex, so it is necessary to continue to invest in marine science, in order to improve the understanding of the factors that influence the fish population. Marine Scotland's budget will reduce from £62.4 million to £55.9 million next year. Of course, the cuts that are coming from Westminster must be shared around, so I will make no unrealistic demands, but I am interested to know how the reduction will be managed. I was reassured by the reply that I received last week from Mr Swinney to a written question on how the reduction will be achieved. He said:

"Priority research programmes will be maintained through the scheduling of government vessels and a consensual approach to research priorities".—[*Official Report, Written Answers*, 25 November 2010; S3W-37666.]

The Cabinet Secretary for Rural Affairs and the Environment referred to that when he gave evidence to the Rural Affairs and Environment Committee this morning.

However, I am more concerned that the implication in the answer was that the support for studies and gear trials that was previously provided without charge will be realigned, which I suspect means that it will now incur a charge. I hope that those charges will not be at a level that might detract from efforts to improve the reduction of discards through the use of selective gear.

I also hope that, in implementing the staff release programme, due account will be taken of the need to preserve the valuable experience that Marine Scotland currently has. The cabinet secretary, or the minister, may wish to advise how they intend to ensure that fisheries science is preserved in these difficult times.

Scottish fishing fleets have made great efforts and undergone great sacrifices to stem the

reduction of the stocks that they fish, so it must be very disheartening when the ICES advice to the European Commission indicates that more pain and sacrifice will be demanded, particularly in areas such as the west coast and from fishers of some species.

As the downward pressure on fishing effort continues, the emphasis has to be on minimising waste and maximising the value of each catch. Everyone talks about the need to reduce discards—we have been talking about it for years—and great strides have been made, with Scottish fishermen leading the way through the use of selective gear and the Scottish conservation credits scheme.

The reform of the CFP presents further opportunities to tackle the problem and there seems to be a fair amount of consensus among stakeholders on issues such as catch quotas replacing landing quotas. However, as Tavish Scott pointed out, there is a need to work with people in the industry, because they are the experts and what may appear to be a particularly useful model may contain flaws.

I think that there is also consensus on the need for regional fisheries management, although, as Ian Gatt advised the Rural Affairs and Environment Committee, it will not necessarily solve all the problems of the pelagic fishing industry. A case is also being made for an approach that uses days fishing rather than days at sea, which seems to be a sensible proposal.

I cannot disagree with the sentiments in the Government's motion. I hope that Parliament can also support Karen Gillon's amendment, which stresses the need for economic support for the communities that are affected by the restrictions emanating from the European Commission.

15:17

**Robin Harper (Lothians) (Green):** I will not be here next year for the annual fisheries debate. I have attended every one since this Parliament was established, and I have noted with some pleasure—particularly in this debate—that things have at last started to move on. Apart from one or two speakers, members have accepted that scientific evidence must be looked at and that scientists, by and large, do the best job that they can. Scientists work within parameters and within degrees of error that they announce before they produce their final determinations. I trust the scientists and I regret to learn, from Elaine Murray, that Marine Scotland will be given less rather than more money.

In the 16<sup>th</sup>, 17<sup>th</sup> and 18<sup>th</sup> centuries, the Dutch fleet in the North Sea grew to between 400 and 600 boats. Each boat employed 10 men or more,

so the fleet employed perhaps 6,000 people. In the time that one modern super-trawler is allowed to go to sea, it can catch as many fish as that entire fleet. The Dutch built an empire on the proceeds from that fishery; we could probably not even begin to finance a small city from the proceeds from the North Sea. The big problem is the huge catching capacity of the fleet over the years, with the damage that that has done to stocks. In many cases, the size of the stock today is a tiny percentage of the size of the stock that existed in the North Sea as recently as 200 years ago.

I have heard members talk about the loss of 41 boats, which is the total reduction in the number of boats across the board in the Scottish fleet over a number of years. However, analysis of the yearly figures that have been produced indicates that the total catching capacities of the European and Scottish fleets have remained remarkably stable. In other words, the catching capacity that at any day could be unleashed on our remaining stocks is as much over what it should be as it ever has been.

I invite the minister, when he goes to Brussels, to try to initiate among all the European nations a conversation on agreeing to reduce the catching capacity of the fleets to the point at which we do not need overregulation because we have a fleet that is adjusted to the size of the stocks that it wishes to fish.

It has been suggested that the need for effort restrictions would be reduced if we had full landing—landing of all catches and no discards, which I hope we will have—but that is not necessarily the case. If the same number of boats with the same catching capacity went to sea and brought back their original target stocks, we might double the amount of fish being landed, but there would still be a crying need for effort restrictions. We have to face the realities.

Peter Peacock made the point that there is absolutely no room for complacency with regard to any stock in the North Sea or off the west coast. I hope that all members present took that point to heart.

I look forward to the minister's response—and I thank the Presiding Officer for the extra 20 seconds.

15:21

**Alasdair Allan (Western Isles) (SNP):** There is an element of annual ritual to the EU fisheries talks. However, they are anything but a formality to Scotland's coastal communities. More than anything else, the talks speak eloquently of the dismal failure that is the EU common fisheries policy. It is a failure not only for the industry, but

for conservation, as the policy's trademark—discarded fish—bears witness.

However, one thing has been changing for the better in recent years. It has been recognised that, despite the institutional failures and the reservation of key negotiating powers to Westminster, Scotland's Government has been playing a more vocal role than previously in defending the interests of Scottish fishermen.

My few remarks today will display the west coast interests that befit my constituency, but I hope that they may also have wider relevance.

If we are to overcome the shameful situation of discards and cope with the reality of quota cuts, we have to adopt a catch less, land more approach. The European Commission must also accept that Scottish fishermen are already leading Europe in conservation measures. Those efforts deserve recognition.

West coast fishermen have particularly grave doubts about the west coast catch composition rules, although that matter may not be discussed fully until next year. I am hopeful that, in the meantime, the cabinet secretary will continue to negotiate hard for Scotland's role in the cod recovery plan not to involve an unrealistic or unfair share of the associated pain.

For the nephrops sector, which is key to the fishing industry in my constituency and elsewhere on the west coast, it is also essential that the risks associated with the subdivision of the seas into functional units be assessed. Whatever happens on that point, there now seems to be a scientific rationale not to repeat the scale of last year's cuts to the nephrops total allowable catch. Although the current relatively low take-up rate of the nephrops quota on the west coast would allow any cut this year to be a paper cut to some extent, we must also start to plan for the time when the sector starts to grow again and not leave ourselves without the people and the capacity to allow that.

The fisheries talks are as important this year to coastal communities as ever they were. They highlight the human cost of Scotland's relative lack of say in decisions that need to be made more locally to a far greater extent.

I will say a word in support of the community in Barra, which continues to argue against another inflexible aspect of European legislation that will, potentially, have an impact on fishing—and much else—on the island: the proposed marine special areas of conservation in east Mingulay and the Sound of Barra.

Barra is a powerful example of the important role that fishing can have in maintaining populations in fragile communities. It is also a good case for repatriating to Scotland, and to

fishing communities themselves, as much as we can of the decision-making process that affects those communities' livelihoods.

As in every year, the next few days are essential to ensuring that Scotland's fishing communities have the future that they deserve. I commend the Scottish Government for advancing its case and look forward to the progress that we will hear from Europe over the coming weeks.

15:25

**Tavish Scott:** I am a bit surprised that so many members think that these debates are the same every year. They are not; that is the whole point. There is always something different going on—

**Richard Lochhead:** You are taking part.

**Tavish Scott:** There is that, but it is probably not a good thing.

This year, Richard Lochhead is dealing with mackerel negotiations and something is going on with different management techniques. There is always something different. Therefore, while we may all be disappointed in a sense, the great thing about fisheries debates is that there is always something new.

However, I remember the speech that Robin Harper made in the winter of 1999—I think that he mentioned technology creep then, too. In fairness to him, he has gone on about that bit of jargon, which my good friend Mr Finnie had to deal with, for some considerable time.

Many colleagues have made broad mention of the economic viability and importance of the industry. Some important things are happening in that regard. The Marine Stewardship Council's accreditation of many species is a positive step forward for different parts of our fishing and coastal communities. However, rising fuel prices and the employment statistics that were cited by Jim Hume and other members highlight how tricky the situation is.

I will concentrate on the point that Dave Thompson, Alasdair Allan, John Scott and others have raised: the management of fisheries, whether on the west coast, the east coast or the North Sea. Colleagues from the different parts of Scotland have touched on their areas. Dave Thompson called the 2009 management measures unfair. However, as the Scottish Fishermen's Federation's Bertie Armstrong, who has been much quoted today, and many other representative fishing organisations have made clear, those measures highlight why the changes that are being proposed build on what is already not working. That cannot be the best way forward. I think that we are all making a broadly similar point to the cabinet secretary on the pilots that he

has been running. I hope that he will define what is a successful pilot—what is working, as opposed to the many problems that are being brought to all members who represent fishing constituencies.

As many have said, the issue of catch quotas is difficult. Bertie Armstrong said in the *Fishing News* this week:

“Any suggestion that catch quotas are a single fix for the economic woes of the Scottish white-fish sector is wrong.”

I am sure that the cabinet secretary knows and believes that. That is why it is so important that catch quotas are not seen as a panacea. I do not want to misquote Maureen Watt, but I think that she said that catch quotas are a win-win and that enforcing control measures is the right way forward. However, on 11 November 2009, when Maureen Watt's committee was taking evidence before the fisheries discussions last year, Bertie Armstrong said:

“my main fear is that it could be the perfect control measure. If the perfect control measure is added to a very imperfect system, the impetus for changing the system is removed—we might simply screw down participants to the imperfect system.”—[*Official Report, Rural Affairs and Environment Committee*, 11 November 2009; c 2079.]

That is the central point of fisheries management, whether under Mr Finnie or Mr Lochhead. That is the difficulty that we all face. We must be alive to that in proposing any changes.

I therefore hope that catch quotas, as they are currently proposed, are not what is taken to Brussels this year. I simply do not believe that they will make the future of our industry any better, nor will they end discards, as Robin Harper rightly said, given their current format. Ending discards is a shared agenda across all political parties that we all seek to achieve.

I will finish with some questions that I hope the cabinet secretary will deal with. He mentioned his officials in Bergen. Does he recognise that many fishermen and, indeed, scientists are concerned about the current system whereby all his compliance, management and science officials are in the same organisation—Marine Scotland? Trust, which is the basis of the relationship between skippers and boats and those who manage the operation, is not all that it should be. Some consideration needs to be given to that. Will he update Parliament on progress towards what is euphemistically called the licence parking scheme? What impact does he expect the scheme to have on catching opportunities? Crucially, will funding remain in our fishing communities or will it in some cases return to the banks to deal with bank debt?

This looks a very difficult year. I hope that the cabinet secretary can achieve much in December.

He must be very clear about the basis on which he is negotiating.

15:30

**Jamie McGrigor (Highlands and Islands) (Con):** The proposed cut of 15 per cent in the west coast prawn quota will, if ratified, devastate my fishing constituents, who are represented by the Clyde Fishermen's Association, the Mallaig and North West Fishermen's Association and the Western Isles Fishermen's Association. The chairman of the Western Isles Fishermen's Association, Duncan MacInnes, said:

"it's cuts on cuts and I think it's beginning to tip the balance where vessels are no longer viable".

Prawns are the mainstay of those fleets.

The Clyde prawn quota was not fully taken up last year for a variety of reasons, such as the limitation on the number of days at sea; the weekend ban, which the Commission seems to ignore; the increase in mesh size that allows the escape of marketable prawns; and the new OMEGA measuring gauge, which has forced a further increase in mesh size.

In addition, in the past 12 months we have seen a huge increase in the presence of Irish vessels, because of large quota cuts in their sector. If that trend continues, the quota for 2011 will run out before the end of the year. Those Irish vessels represent an increase in fishing effort of about 30 per cent, which, combined with the proposed 15 per cent cut in quota, will cause an early closure of the fishery. What will the cabinet secretary do to prevent that?

Tavish Scott spoke admirably about the problems in Shetland, and Orkney white-fish boats have received no reward for their past conservation efforts. The size of the real-time closures for cod is displacing fishermen from large areas of the North Sea to traditional Orkney fishing grounds and to other species. The EU Commission seems to refuse to acknowledge the benefits that the fishermen's good efforts have already achieved.

Regarding discards, the cabinet secretary will be aware that the SFF thinks that a land-all-you-catch policy is the industry's big hope for salvation, but what is his response to the concern of those who have participated in the trials to date that unless changes are made to the present TAC and quota rules, the policy will simply not work in reducing discards or in improving the commercial position of the white-fish fleet?

Will the cabinet secretary give the chamber an update on his talks with the Manx Government on fishing for king scallops, which my west coast constituents have traditionally harvested in Manx

waters? Will he address the very real concerns of fishermen in the Hebrides who face seeing their livelihoods taken away as a result of the special area of conservation designation that is planned for east Mingulay, which Alasdair Allan mentioned, where they have fished for generations without doing too much damage to any reef?

It saddens me that, 12 years after the Parliament's establishment, there is still such a gulf between the fishing industry and the EU Commission on fisheries management. Scottish fishermen cannot be criticised for questioning so-called science when they can clearly see the true facts for themselves. With respect to genuine scientists, I refer members to Winston Churchill's view, which was that it is better to have science on tap than science on top.

No fleet has taken more pain than the Scottish fleet when it comes to conserving fish stocks but, as Bertie Armstrong says, the Commission proposals are a "study in arrogance" that some MEPs condone. One fishermen's representative told me that those MEPs were as much use as a set of bagpipes tuned by Edward Scissorhands. I know that the cabinet secretary can do much better than they can, and I wish him and Richard Benyon every success in their efforts.

15:34

**Sarah Boyack (Edinburgh Central) (Lab):** I believe that this is not just a repeat of previous debates. Of course we have to have a debate every year in the run-up to the fisheries negotiations, but there have been some changes. Progress has been made in our thinking on how we might deal with discards. More research has been carried out and the pilots that have been conducted over the past few years have helped us to think about how we might shape the future.

The speeches of John Scott and Jim Hume demonstrated that they have been expertly briefed by some of their colleagues—I certainly recognised one or two of the lines in John Scott's speech and I definitely got the politics of Jim Hume's speech.

This is not the same debate that we have every year, as things are moving on. There is a focus on regional fisheries management, and we need to discuss where we want to push the quota system and what has worked in the pilots.

We have talked about discards in the past few years. The work that is being done needs to be looked at properly. The minister set out the challenges, and he was bang on when he talked about the west coast, the stock, the economic impact on communities and the position with mackerel. Peter Peacock said that our fishermen should not have to see Icelandic and Faroese

fishermen taking the benefits of their previous restraint and work. That would be an impossible situation for people in Scotland.

Karen Gillon's questions got to the heart of the matter of this year's negotiations on tackling discards. I am keen to hear the minister's solution and how we can push it forward. What lessons does he think we can draw from the pilot work that has been done? We cannot expect the EU to get rid of discards by allowing fishermen to keep what they catch. None of us can see that happening. There must be a place between the pilots and that position.

The RSPB is right that there must be a way of catching fewer fish while landing more. The WWF also focused on that point. We have to bore into the reality of what has happened in the pilot. Some of the fishing organisations are less than relaxed about the possibility of what happened in the pilots fossilizing into the new position. We must be careful before we decide to take that way forward.

One of the key issues that we need to look at is monitoring compliance with the cod catch quotas. What does the minister think has happened in the experiments that have been carried out? What lessons can be applied? We need to understand the pitfalls and the opportunities.

Science must be at the heart of this. The speeches of Dave Thompson and Jamie McGrigor were not very helpful, because they just slated the science. The science must be robust, accurate and transparent. It is not above criticism, but we cannot say that we do not need it.

**Dave Thompson:** Will the member take an intervention?

**Sarah Boyack:** No, I need to get on.

The key thing is to ensure that we get good science. The Scottish Government has a role in ensuring that we get good and transparent science that everyone can see, understand and criticise. Elaine Murray's comments about the need for priorities in science under sustained financial pressure were bang on. We must make sure that money is spent correctly.

We need to consider sustainable fishing. The points that were made by Peter Peacock and Robin Harper were absolutely right. Progress has been made during the past 12 years in the debates between the fishing communities and the NGOs that look after the environment. Their positions have come closer over the years. That does not mean that they agree on everything, but there is far greater understanding and more of a willingness to work together than there was 12 years ago. Elaine Murray and Tavish Scott were right to point to progress.

The Labour amendment looks at what is to happen to the fishing communities now. We know that they have been under pressure for the past few years, and they will continue to be under pressure in the future. They need support from the Scottish Government now. Whatever the result of this year's negotiations, those communities will need practical economic support. It is not just those who are conducting the fishing who are impacted on, but the communities in which they spend money, the supplies industry, the shops that they use, and the schools that their children go to. All the communities in our fishing areas will be under threat and pressure, and the Scottish Government has it within its power to help them out.

I hope that colleagues will support our amendment. We need not just to get maximum value from the fish that we land and to sustain stocks and the ecology but to sustain our fishing communities as they find their way through tough times. Economic support from the Scottish Government is needed, and our amendment suggests that that must be at the heart of the Scottish Government's approach.

15:39

**Richard Lochhead:** I believe that these annual fishing debates are very important and, unlike members in some other Parliaments elsewhere, I believe that we should continue to hold them because the speeches that we hear are extremely valuable.

I welcome the fact that we all recognise the importance of sea fisheries to Scotland in this year and throughout the 21<sup>st</sup> century and accept that we have to maintain that contribution to our economy and, of course, secure a good food resource for our people. It is also recognised that this is not just about the fleet at sea but about the onshore sector, where tens of thousands of people work in processing that fantastic food product.

We need to keep things in perspective. I noted Jamie McGrigor's comment that it would be a disaster for the west coast of Scotland if there was a 15 per cent cut in the nephrops quota. No one is more concerned than I am as minister when such cuts are proposed but, given that the likely uptake on the west coast is about 60 per cent this year, it does not keep things in perspective to say that that cut would be a disaster for the west coast. We must also remember that, rather than declining, the value of sea fisheries rose by 10 per cent last year. We have spoken about the pressures facing the white-fish sector, but even the commercial fishery value rose by 5 per cent.

Fishing remains important to Scotland, and we must keep things in perspective, but we must not

mask some of the serious problems facing particular sectors in Scotland's fishing communities. The sectors are trying to cope with the fallout of the recent recession at the same time.

As members have said, we face an important fortnight. This week, we have the talks between the EU and Norway, where the approach to many of the key stocks of importance to Scotland will be discussed and agreed. Then we have the remaining few days of the coastal states negotiations over the mackerel stock. Scotland's view is that we must not reward irresponsible behaviour by the Faroese or Icelanders, but we need a deal. No one will win if there is no international agreement in the years ahead.

Let us learn from what happened to blue whiting. In 2005, catches of blue whiting were just under 2 million tonnes; by 2011, the advice is that the TAC should be set at 40,000. That is a 98 per cent reduction, because the same states that are involved in the current coastal negotiations on mackerel failed to reach an international agreement about blue whiting. Does any member seriously want that to happen? I say to Tavish Scott and others that we will take a hard line, but our line will also be that we should get an agreement. That is the best thing to do for the long-term viability of the stock; otherwise, in Shetland and elsewhere in Scotland, the £335 million annual income that we receive from the fishery will simply disappear. We cannot allow that to happen.

**Tavish Scott:** I agree with the minister's sentiment, but does he recognise that the concern of the pelagic industry in his constituency and in mine is that the Faroese are asking for double the percentage allocation that they had under the agreement that was in place before? That is surely not acceptable.

**Richard Lochhead:** I certainly agree that we must not reward irresponsible behaviour, and we continue to take that line with both the Norwegians, who are a major player in the negotiations, and the EU.

I was surprised to learn that the Scottish Government and fishing industry were being attacked for agreeing initiative upon initiative over recent years. I remind members that most decisions on Scottish fishing communities are taken in Brussels. Most are completely ill fitted to Scotland's needs and are therefore damaging to Scotland's fishing communities. It is the duty of the Government and the Parliament to work with our fishermen to mitigate the damage from the common fisheries policy. That is why we have had a number of exciting initiatives over the past few years—to mitigate the effects of the bad decisions

and to help our fishing communities to cope with them.

I say to Peter Peacock that, in opposition, I was critical of the previous Administration's policies in some regards because, too often, I felt that we just shrugged our shoulders and swallowed what Brussels threw at us rather than coming up with some innovative solutions to ease the pain for Scotland's fishing communities. I did not disagree with everything, but that is certainly the basis of some of my disagreement with previous policy.

Let us consider the cod recovery plan. The approach to that has been attacked as being new initiative after new initiative. The cod recovery plan proposed a significant cut in days at sea for the Scottish industry. The Scottish Government took the decision that we should introduce a new scheme that rewards fishermen with more days at sea for adopting certain conservation measures. That has worked: this year, we have managed to give fishermen 40 per cent more days at sea than they would have had if the buy-back system had not been put in place. Are Tavish Scott and the others who attacked the initiative after initiative suggesting that we should have just lain back and accepted a 40 per cent cut in days from Brussels? I take the attitude that we should use our imagination and ingenuity and do what is right for fisheries conservation and for our fleet to mitigate some of the damage from Brussels. We will do that with a range of other measures, too.

Finally, on catch quotas, we are trying to mitigate one of the biggest flaws in the CFP: discards. We all hate discards—the public, the scientists, the environmentalists and the fishermen themselves hate discards—and we are trying to do something about it. I say to Tavish Scott that that is why we have another new initiative: to do something about it and not to let year after year go by with massive discards in the North Sea.

Catch quotas are based on the fact that the scientists, when they are working out the total allowable catches, assume that there will be a significant level of discards—in the case of cod, 30 to 40 per cent. The catch quota for cod is based on allowing the fishermen to land some of that fish, which the scientists say is going to be taken out of the sea anyway, as opposed to having to dump it, in return for stopping discards overall. In other words, if we allocate a share of what is expected to be discards to landing quotas in return for having no discards, more fish are left in the sea and the fishermen benefit because they can land more fish. That is what this new initiative is about.

The 17 vessels that have participated in the cod catch quota throughout this year have had £1 million of extra income from that initiative. There is therefore a financial incentive for the fishermen, who benefit from taking part in the scheme, and it



is good for fisheries conservation as well. It is not a panacea; it will not fix all the industry's ills. However, we are pushing to expand the scheme to haddock one day soon and to increase the number of vessels that are participating in the cod catch quota this year.

This is a challenging time for Scotland's fishing communities, but there is a lot of optimism in the fleet. It is a very valuable industry for Scotland and we must fight hard at the annual negotiation to get the best possible deal, which is what the Scottish Government will be doing.

## **End of Life Assistance (Scotland) Bill: Stage 1**

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a debate on motion S3M-7438, in the name of Margo MacDonald, on the End of Life Assistance (Scotland) Bill.

15:46

**Margo MacDonald (Lothians) (Ind):** I thank everyone who had considerable difficulty in getting here today.

I confess to a wee bit of pride in opening the stage 1 debate on the End of Life Assistance (Scotland) Bill. We, the Parliament that represents the wishes, beliefs, hopes and determination of our fellow countrymen and women, are doing something today that Parliaments are meant to do: we are trying to find an honourable, fair and equitable solution to a problem. Put another way, as an institution, we are meeting a challenging situation head on and doing so in a manner that reflects well on the inherent democracy that exemplifies Scotland and which underpins our parliamentary processes.

The idea of assisting someone to achieve a peaceful death within the law, in what that person considers to be a dignified fashion, is alive and well and is being discussed in countries all over the world. In this part of the world, the Isle of Man is in the initial stages of a bill and in England work is being done to prepare a bill for the House of Lords, but the Scottish Parliament is leading the debate.

One or two opponents of the bill say that the law of Scotland is quite clear on assisted suicide and that the bill is not needed. That is to assume that the law sits well with contemporary attitudes and beliefs about the circumstances of our own deaths. Interest in the cases in England in which people might wish assistance to end their own lives before nature decrees and seek assurance that those who help them will not be prosecuted is just as strong in Scotland. Although the law is different on either side of the border, opinion polls consistently show the same level of support for the idea on both.

In case I forget later, I acknowledge the professional commitment of David Cullum's non-Executive bills unit and thank its staff for getting the bill to this stage. As ever, I am indebted to my colleagues Peter Warren and Mary Blackford. I am also, recently, indebted to our intern, Kush Govani, and our work experience student, Joe Somerville. We have all enjoyed the support of the Humanist Society of Scotland, Friends at the End and

hundreds of individual Scots—medical and nursing professionals, clergymen and women, lawyers and people with a personal or family interest in the bill's intentions. My pride in the Scottish Parliament's approach to the issue derives not only from the time and effort that some MSPs and their staff have put into consulting their constituents; Parliament staff have also contributed. I especially acknowledge the unique contribution that was made by Jeremy Purvis when he started the ball rolling with a bill proposal that failed but, nevertheless, was the platform from which my bill was launched.

In the same vein of getting my retaliation in first, I cut to the chase and condemn as unworthy and cheap the contribution from the publishers and authors of the catalogue of linguistic contortions I have here, headed "Care Not Killing". The postcard that I am holding up was distributed in churches, and it caused alarm among frail elderly and disabled people. One lady, Frances Robson, from Edinburgh, got in touch with my office to say that she had done a latter-day Jenny Geddes in her church. Someone had preached from the pulpit using the card as his text. She stood up and challenged what he was saying, which she said was political and not what a church is for. She was one of many good, churchgoing people who contacted my office to say that they could incorporate the idea that I propose today within their belief system.

The organisers of the campaign were no doubt delighted to unload 10,000 filled-in postcards into the arms of MSPs who oppose the bill. However, as most, if not all, of those concerned are churchgoers, I confess to being puzzled about how they squared their conscience with the statements in the card. Care Not Killing says:

"The Bill will"—

not maybe, might or could—

"put large numbers of sick or disabled Scottish people at risk."

From whom? The penalties will remain unchanged for smothering someone, even when asked to do so by the person wishing to end their life, or for helping them to drink a lethal dose of opiates.

Even qualified and registered medical professionals, doctors and consultant nurses will require to follow the procedures laid down or they, too, will be breaking the law and will face prosecution. This tacky little card dismisses those safeguards as "illusory". According to Care Not Killing, the need for witnesses to the requesting patient's application to a doctor for assistance and the requirement for psychiatric assessment before the person concerned makes a second request are merely "so-called safeguards".

The first claim on the card must be dismissed as heartless scaremongering. If even one MSP in the debate can prove a logical, inevitable link between people who are defined in the bill as having the legal right to seek help to end their life prematurely—provided that the safeguarding features of the bill are observed—and sick or disabled people who do not wish to comply with the bill's procedures, whether or not they are terminally ill or suffering from a degenerative condition, I look forward to hearing their justification of the statements on the card.

If the tightly prescribed legal rights of the bill could reasonably be expected to pose such a risk to vulnerable groups, presumably a similar pattern of behaviour would exist in places where assisted suicide is legal. None of the witnesses questioned by the committee gave house room to that claim by Care Not Killing.

Care not Killing also states unequivocally that vulnerable and depressed people will

"be put at risk of self-harm."

Who says? Where are the studies or statistics to prove that the bill, which rests on the legal right of a requesting patient to seek professional help to bring life to an end, will have any effect on the behaviour of people who do not seek help? Do the opponents of this limited, defined measure claim that more people will attempt to take their own life than at present? Why? Would they be outside medical and social-work support programmes, as many people who attempt suicide are at present? How would the bill change their circumstances?

Another claim that is made as a statement of proven fact in the leaflet is that

"(assisted suicide) will come to be seen as an easy, low-cost alternative to good care."

Who will see it in that way? According to Care Not Killing, elderly people in care will feel that it is their duty to die. Some elderly people stuck in below-standard care homes do wish for an early death, but the bill's provisions do not cover them. I hope that we do not hear a litany of sanctimonious remarks about improving care provision. We have had more than enough time to do that.

**Tricia Marwick (Central Fife) (SNP):** Margo MacDonald is aware that the committee that considered her bill had a number of criticisms of the bill. When will she address those criticisms so that we can hear her views on the committee report?

**Margo MacDonald:** I will come to my views on the committee's report at the end of my speech; Tricia Marwick might wish that she had not asked for that.

In his evidence to the committee, Dr Georg Bosshard said:

“Doctors will never be happy with assisted suicide and euthanasia, and it is important that they are not. As my colleague said, that is an important safeguard.”—[*Official Report, End of Life Assistance (Scotland) Bill Committee*, 7 September 2010; c 23.]

That is how doctors feel about it. If we are to believe Care Not Killing, however, doctors are without morals, feelings or sentiment.

Perhaps Care Not Killing was referring to the powers that be—perhaps it meant that the state, or even just doctors, nurses and hard-up health boards, will view assisted dying as an easy low-cost alternative to good care. Is Care Not Killing claiming that even hale and hearty old people, or people who are living fulfilling lives in wheelchairs, will be snuffed out even as they do their best to hang on to life for as long as is possible for them?

Perhaps Care Not Killing had in mind the caricature of greedy, heartless family members, who it is sure will change character and depart from the normal behaviour of caring relatives who do not want to let a loved one go. Doctors and nurses who have dealt with people who are in the very last stages of their life have told me that the family want the person to stay.

For the opponents of the bill's principles to have any credibility, they will require to back up the assertions in the card with facts and numbers, and explanations of the processes that they claim will be set in motion if the bill becomes law.

Supporters of the bill can cite the evidence that the committee has heard from witnesses. For the predictions of the bill's opponents to be credible, Oregon, the Netherlands, Belgium and Switzerland must be heartless and inhumane societies.

The card concludes with a hypocritical assertion that assisted dying is contrary to good medical practice. Members and their constituents know that, for generations, and perhaps centuries, terminally ill people have been assisted to die through the administration of a double-effect dose of—usually—opiates to relieve suffering, in the knowledge that life is likely to be curtailed too. Quite apart from the proof that doctors took that decision as an act of care, it is plain from what we have heard throughout the whole debate that the British Medical Association does not speak for all doctors when it declares itself to be against the principle of assisted dying. I refer members to the evidence that was given to the committee by medical witnesses.

Opinion among clinicians and other registered medical professionals differs on assisted dying, as it does among the general population—and why should it not? Their ethics, religiosity, beliefs and

creeds will be as varied as those of the rest of society. Indeed, there is evidence that, when asked for their opinion on assisted dying, the liberal democracies in our part of the world—some Roman Catholic, some Lutheran and some Calvinist—show a remarkable similarity of attitude.

**Roseanna Cunningham (Perth) (SNP):** Evidence?

**Margo MacDonald:** I believe in the goodness of people, and that is why I am bringing the bill to the chamber today. I hear a call for evidence; I regret that I have run out of time, but I have the evidence with me and I am prepared to offer it throughout the debate.

I move,

That the Parliament agrees to the general principles of the End of Life Assistance (Scotland) Bill.

15:58

**Ross Finnie (West of Scotland) (LD):** The End of Life Assistance (Scotland) Bill was introduced to the Parliament on 20 January 2010, and the committee to consider and report on the general principles of the bill was established on 10 February 2010. The End of Life Assistance (Scotland) Bill Committee first met at the beginning of March and issued a 10-week call for written evidence. By the closing date in May, over 600 responses had been received, and further submissions were received throughout the duration of the inquiry.

During the period of the call for evidence, the committee decided that, in addition to the briefings that were available to it from the Parliament's research specialists, it would seek an academic perspective. After careful consideration, the committee appointed Alison Britton of Glasgow Caledonian University as its adviser.

The committee called on the Parliament's solicitor to brief it on relevant statute, common law and case law, and took briefings on jurisdictions outwith Scotland that are said to have legislation that is comparable with the proposal in the bill.

The committee devoted the period between the summer and autumn recesses to taking oral evidence from 48 witnesses. The committee then spent four meetings carefully drafting and finalising its report. Although there were varying views among committee members, the report was finalised consensually.

I place on the record my thanks to all who responded to the call for evidence; all who gave oral evidence; Jude Payne and the Scottish Parliament information centre team for collating the written evidence and providing research support; Lynda Towers, the Parliament's solicitor, for her legal advice; Alison Britton, our adviser, for

the context and analysis that she brought to the inquiry; and Douglas Thornton, the committee clerk, and the clerking team for all their assistance throughout the inquiry and in the preparation of the report.

The bill would decriminalise Scots law on homicide as it applies to the acts of assisting suicide and voluntary euthanasia, and it would provide a defence to any related delictual liability. The committee believes that the construct of the bill would have been improved if those two acts had been dealt with as separate provisions within it. It attributes a meaning to the phrase “end of life assistance” that does not explicitly include any notion of hastening death. The committee found that it would have been less confusing if the terms “assisted suicide” and “voluntary euthanasia” had been used instead.

The committee found no ambiguity in Scots law in the area. If someone chooses to travel to another jurisdiction to commit assisted suicide or to access voluntary euthanasia, he or she does so because certain inherent aspects of those actions are unlawful in Scotland.

Examples from other jurisdictions, particularly the Netherlands and Oregon, were cited as being comparable with the proposal in the bill. However, the committee found two important differences—first, in the cultural and legislative contexts of those places compared with Scotland and, secondly, in the breadth and scope of the bill.

An individual’s autonomy was advanced as a central argument in favour of the bill. The committee notes, however, that the bill would not accord or establish any rights. Further, the committee found instructive the courts’ interpretation of article 8 of the European convention on human rights, whereby the courts have acknowledged not only the right to respect for private life but that that right might have to be tempered in the interests of wider society. Most members of the committee believe that the wider societal concerns should prevail in the context of the bill and do not accept the principle of absolute autonomy as argued by the member in charge. One member, however, believes that, in the context of the bill, the interests of the individual should prevail.

**Margo MacDonald:** Would the member care to elaborate on two points before we go very much further? The first is about autonomy. The bill does not talk about absolute autonomy. It talks about the autonomy of the individual concerned, and we all understand that that is bound to be constrained in certain circumstances. Why does he think that should count against—

**The Deputy Presiding Officer:** Quickly, please, Ms MacDonald.

**Margo MacDonald:** —the bill?

**Ross Finnie:** I deliberately used the phrase “in the context of the bill”. We all have an absolute right, in terms of the law of Scotland, to commit suicide. The issue is whether the person’s autonomy extends to involving and engaging other persons to assist them in that act. In so far as that is a more absolute definition of autonomy, that is the definition that we have sought, and we found instructive the definition that is used in the European convention on human rights.

The preservation of an individual’s dignity was also described as essential and central to the argument, but the committee found “dignity” to be capable of having at least two interpretations. For those who are in favour of assisted suicide, it means preserving control, self-worth and identity in the terminal stages of life. For those who are against, the key to preserving dignity in the terminal stages of life lies in the quality of care that is available and the respect that is afforded to the dying. The committee found it impossible to reconcile those two positions.

**Patrick Harvie (Glasgow) (Green):** Does the argument that dignity means different things to different people not reinforce the general principle that the law ought to respect those who bring their own values to difficult decisions and who wish to make different choices?

**Ross Finnie:** The committee did not base its conclusions solely on the issue of dignity; indeed, I have accurately reflected the fact that we found the argument to be evenly balanced. As I will point out in the conclusion of this speech and as the member will see if he reads the whole report, the committee reached its conclusions after balancing all the issues that were highlighted in evidence.

In Scots law, a person aged over 16 is presumed to have capacity. Although the majority of evidence questioned why the bill would create an unprecedented requirement for all individuals requesting assisted suicide and voluntary euthanasia to establish capacity, the committee believes that, in such a situation, that approach would be justified.

The bill would also establish a procedure to detect undue influence requiring two meetings with a medical practitioner and another meeting with a psychiatrist, neither of whom need have had any previous contact with the requesting person. The committee doubted whether that level of contact gave sufficient assurance that there had been no undue influence on the requesting person’s decision.

**Margo MacDonald:** Will the member give way?

**Ross Finnie:** I regret to say that I must make progress—I will try to come back to the member.

The committee shared concerns that were raised in evidence that the bill does not specify any particular qualifications or experience for the designated practitioner and psychiatrist roles. However, it noted that that might raise competence, regulatory and legal issues.

The committee found the ostensibly objective eligibility test, based on finding life “intolerable”, to be inherently subjective. The member in charge placed great emphasis on her intention that the wishes and self-determination of the requesting person be paramount. Such a position, however, cannot be said to be objective.

A further eligibility test is based on being

“permanently physically incapacitated to such an extent as not to be able to live independently”.

Apparently that terminology was aimed at capturing a small number of people who find life intolerable. However, the committee found that it could also apply to a wider group of people with a range of physical conditions or physical incapacity. As it stands, the test is extraordinarily widely drawn.

Moreover, with regard to an eligibility test based on an inability “to live independently”, the committee found compelling the evidence from disability organisations on the way society may let an individual's life become intolerable by neglecting to provide sufficient and appropriate support. Using an inability “to live independently” as an eligibility test raises issues of definition, clarity and subjectivity similar to those raised in relation to other terminology in the bill and the possibility of unintended consequences. The committee noted concerns about the absence of any requirement for the presence of a designated medical practitioner and believes that, during the end of life process, any medication should be administered in such a practitioner's presence.

Although the bill would not explicitly require the participation of any particular person or class of person in assisted suicide or voluntary euthanasia, there were calls in evidence for the inclusion of a conscience clause. The committee agrees with that view.

**The Deputy Presiding Officer (Alasdair Morgan):** The member should wind up.

**Ross Finnie:** Overall, the majority of the committee was not persuaded that the case had been made to decriminalise the law of homicide as it applies to assisted suicide and voluntary euthanasia—or what the bill terms “end of life assistance”—and, accordingly, does not recommend the bill's general principles to the Parliament.

**The Deputy Presiding Officer:** We move to the open debate. I ask for speeches of six minutes. I

point out, however, that the debate is oversubscribed and that if every member takes only an extra 10 seconds—which, to them, might not seem a lot—the last person will not be called at all. As a result, everyone should try to come in on time.

16:08

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** First of all, I thank Margo MacDonald for her work on this bill. Whatever the outcome of tonight's vote, she is to be commended for raising such an important and sensitive issue that, as she has rightly pointed out, is being discussed in many other jurisdictions and, perhaps more important, for creating the atmosphere in which the issue can be discussed in a generally mature and sensitive way.

As you have just pointed out, Presiding Officer, many MSPs want to speak in the debate, so I will keep my comments on behalf of the Government as brief as possible. Like the bill committee, the Government believes that the current law is clear—it is not lawful to assist someone in committing suicide—and has no plans to change it.

Decisions about prosecution rightly rest with the Crown Office. I think that when the Solicitor General for Scotland gave evidence to the committee he laid out the considerations that are taken into account when decisions are being made. Notwithstanding that Government view, Government ministers will, like all other MSPs, be entitled to vote on the bill according to their conscience. I know, for example, that my colleague Richard Lochhead intends to vote in favour of the general principles of the bill.

I will speak personally now. After careful consideration, I have decided that I will vote against the bill, for many of the reasons that Ross Finnie has just outlined. Those were the reasons why the committee found itself unable to support the bill. Inevitably, but strikingly, the arguments for the bill have often been made with reference to people who have very definite views about what they would want for themselves at the stage of a terminal illness that the bill would cover. It is hard for people, including me, not to have great sympathy with the views that people in that situation express. However, in reality, many, if not most, people who find themselves in that situation or face the prospect of that situation will not have such definite views. Perhaps their views and emotions will be mixed. Perhaps they will be swayed by their perceptions of the impact of their illness on their family or by the quality or lack of quality of the palliative care services that they find are available to them.

Personally, I am fundamentally concerned about the difficulty that will, I think, always and inevitably be present in determining that someone who has chosen to end their life has not been subjected to undue influence. That is the fundamental reason why I will vote against the bill.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** I entirely understand the minister's views. However, advance directives are recognised under the common law in Scotland. What protections prevent people from abusing them when people make a future request for treatment to be withdrawn?

**Nicola Sturgeon:** Jeremy Purvis raises a legitimate issue, and in doing so demonstrates the complexity of the matter. Because of the complexities involved, regardless of my views or those of anybody else on the bill, it is right that such issues have been considered.

My second real concern about the bill relates to the terminology around end of life assistance, and the use of that phrase to describe a situation in which a person seeks assistance to end their life. In my view, end of life assistance—Mark Hazelwood of the Scottish Partnership for Palliative Care in particular strongly expressed this view to the committee—should be about

“enabling a person who is dying to maintain their dignity and to have a minimum of distress.”—[*Official Report, End of Life Assistance (Scotland) Bill Committee*, 14 September 2010; c 100.]

In other words, it should be a description not simply of a decision to die, but of the practice of palliative care generally.

**Margo MacDonald:** The question of dignity has come up again. The minister says that she agrees with Mark Hazelwood, but does she accept that dignity is a subjective concept?

**Nicola Sturgeon:** I absolutely accept that, but I am also mindful of Ross Finnie's points about the subjectivity of many of the other terms in the bill. In some respects, that led me to have the concerns that I am expressing.

I promised to be brief, and I want to come to my final point, which is a less personal one; it is more a point on behalf of the Government. With the greatest respect to Margo MacDonald, I do not mean what I am going to say lightly or sanctimoniously. The Government and I believe that the responsibility and priority of Government should be to ensure as far as it possibly can that services and care are in place to allow everyone with a terminal or life-limiting condition to live out their last days with as much dignity and in as much comfort as possible, and for them to have as much autonomy as possible over where they die, for example. I believe that that is the primary responsibility of Government. That is why the

Government has expended and will continue to expend as much effort as it has expended on implementing “Living and Dying Well”.

I look forward to the rest of the debate. Regardless of any individual's views, Margo MacDonald is right to say that the Parliament should be proud of the debate and of the way in which it has been conducted.

16:15

**Michael McMahon (Hamilton North and Bellshill) (Lab):** In the short time that is available, it is impossible to consider in depth all of the issues that are raised in the bill and the wider implications of all the bill's consequences. In speaking today, I have the support of my colleagues Elaine Smith, who represents Coatbridge and Chryston, and Karen Whitefield, who represents Airdrie and Shotts. They cannot be here today, due to the inclement weather, but they would have joined me in opposing the bill at decision time.

As the convener of the cross-party group on palliative care and the cross-party group on disability, I have had the opportunity to listen to a range of expertise on this matter, and can arrive at no conclusion other than that this bill should be opposed.

My main concern with the bill is that its supporters say that it is

“consistent and compatible with palliative care as an important part of comprehensive end of life care”.

Fundamentally, though, palliative care has nothing to do with euthanasia and physician-assisted suicide.

It has been made absolutely clear to me that the fact that physician-assisted suicide is currently illegal allows palliative care professionals to discuss death and dying freely with patients. In fact, the question, “Have you ever thought that life is not worth living?” is one that palliative care professionals often ask, and frank discussions about such subjects are an essential part of end of life care and helping people to move past suicidal thoughts. Changing the law to legalise assisted suicide could cause patients to see such discussions as a cue to consider ending their life, and would therefore prevent professionals from providing that integral component of palliative care to patients.

The bill assumes that autonomy is a generally accepted principle on which to base law. In fact, the law exists to protect us all, and often curtails individual autonomy in order to safeguard others.

Many of those approaching the end of their lives are vulnerable, but that does not make them weak. Vulnerability is part of a person's humanity. It

should be respected but not exploited, and as legislators we must offer protection against the situation that is emerging in which someone could be exploited.

The proponents of physician-assisted suicide constantly reference the Oregon Death with Dignity Act 1997 and cite evidence of good practice there and in Holland to support their position. However, palliative care as we know it in Scotland and the United Kingdom does not exist in Oregon and Holland. No hospice or hospital in Oregon allows physician-assisted suicide on its premises, so Oregon does not provide any evidence that physician-assisted suicide and palliative care can co-exist. That might be an uncomfortable truth for the bill's supporters, but it is the truth nonetheless.

People look to doctors and nurses for a reflection of their worth. Dignity is not about physical perfection—everyone is worthy. As those who work in palliative care and with people who have disabilities are well aware, a high percentage of people have suicidal ideas, but those ideas change over time. Under the bill's proposals, if a depression diagnosis were missed, all safeguards would fail.

There is a small minority of people who are currently not adequately helped by palliative care. The development of palliative drugs is very expensive, and there is a danger that money would not be spent on such development if assisted dying became an option.

Just because we cannot relieve all pain does not mean that we should change the way in which doctors and nurses work.

Many places think that they are providing the best palliative care possible, but they are not. Palliative care has much room for improvement, and the bill would undermine those improvements. As the cabinet secretary said, the living and dying well action plan is a positive measure, which requires our support and should not be undermined.

The proposed new law is dangerous and unnecessary. Society needs to know that we cannot have both physician-assisted suicide and palliative care. In reality, we can have only one or the other.

**Margo MacDonald:** How does the member define the use of a dual-effect drug at the end, if not as physician-assisted death?

**Michael McMahon:** I define it in terms of intent, just as doctors do. They know the difference, which is why they can consider the issues much more clearly than we can. There is no grey area in the way that Margo MacDonald suggests. Intent is

everything in that circumstance, but she ignores that fact.

Not everyone has an articulate and forceful personality, and for those who are unable to express themselves with confidence, coercion could be a real risk.

I doubt that anyone would argue that someone should have a bad life rather than a good death. What is in dispute, however, is whether allowing the legal right to choose to die at the hands of a doctor is the solution that this Parliament should give to someone who believes that they can no longer tolerate their life.

We face a momentous decision, as a bill such as the one that is before us represents an irrevocable step. As a supporter of the greater development of palliative care, I hope that colleagues will choose the positive course that is available through palliation to help people to have a good death rather than the negative alternative that is contained in this bill.

16:20

**Nanette Milne (North East Scotland) (Con):** I say at the outset that I will not support the bill. I have spoken twice before in the chamber against the principle of so-called end of life assistance or dying with dignity. Nothing that I read or heard during the End of Life Assistance (Scotland) Bill Committee's consideration of the bill persuaded me to change my mind. That said, as all members of the committee did, I gave full consideration to all the evidence that was put before us. I express my gratitude to the clerks, SPICe and our advisers for the huge amount of invaluable assistance that they gave us during our scrutiny of what is a complex bill. I also thank all those who gave evidence, for and against the bill.

Our decision not to recommend that Parliament agree to the general principles of the bill was not taken lightly. It was taken only after lengthy and careful deliberation and after sifting through a huge amount of evidence, both written and oral. I will deal first with my personal reasons for opposing the bill and then mention some of the details that concerned me as a committee member.

As a former health professional bound by the Hippocratic oath, and with training that was aimed at improving and prolonging life where possible, the idea of actively and deliberately hastening death by assisting someone to die is extremely disturbing for me. I agree with the many professional colleagues who think that legalisation of assisted suicide or voluntary euthanasia risks undermining patient trust in doctors and medical advice.

**Margo MacDonald:** Does the member recall that that point was put clearly to the witnesses who came from the Netherlands, and that they said that there was no record at all of that trust between patient and doctor being harmed?

**Nanette Milne:** They indeed said that, but there remains the perception that that could happen. I firmly believe that it could, as do many medical colleagues in this country.

There have been significant improvements in palliative care in Scotland in recent years. For me, that is the way forward to ensure that the vast majority of patients experience a dignified and comfortable death when that inevitability arrives. Death is part of a continuum with life, and to achieve a good death is as vital a part of health care as any that a patient receives throughout life. I sincerely believe that good palliative care to take the fear and pain out of dying is far better than looking to voluntary euthanasia or legally assisted suicide.

I accept that for a few patients—indeed, they are few—palliative care cannot be 100 per cent effective. However, I am not convinced that that is sufficient reason for us to legislate to allow assisted death as described in the bill, and nor are the palliative care specialists who deal with those difficult cases convinced about that. For those who say that assisted death happens already when doctors give a drug to relieve suffering in a dose that, to be effective, has the double effect of causing respiratory failure, I point out that the Solicitor General stated clearly in evidence that to administer a drug with the intention of relieving suffering is different from doing so with the intention to end life, the latter being an act that is classified as homicide.

The committee felt that the bill's title is ambiguous. In my opinion, it is euphemistic, because its intention is to decriminalise assisted suicide and voluntary euthanasia, when in fact it is palliative care that gives practical assistance to people at the end of life. Moreover, by seeking to decriminalise both those means of ending life, the bill differs significantly in breadth and scope from the examples from other cultures and jurisdictions that the member in charge of the bill cited as if they were comparable.

In the time that is left to me, I will touch briefly on a few other aspects of the bill that were of concern to the committee and to me in particular. I am not convinced that the difficulty in detecting undue influence on a person seeking end of life assistance can be overcome, especially given that the necessary approvals to proceed would be obtained after two meetings with a medical practitioner and one with a psychiatrist, neither of whom would need to have had previous contact with the requesting person.

The definitions of dignity and autonomy and the bill's qualifying conditions of terminal illness and intolerability exercised the committee considerably. Those who are in favour of the bill's proposals see assisted suicide as a means of preserving dignity in the terminal stages of life and at the moment of death. However, against that is the equally compelling argument that a hastened death is undignified by its hastening and that the way to preserve dignity in the terminal stages of life lies in the quality of care that is available and the respect that is offered to the dying. The committee found it impossible to reconcile those opinions.

Most committee members felt that a balance must be struck between an individual's autonomy and the interests of society as a whole and that, in the context of the bill, society's wider concerns should prevail.

The progress of terminal illness is extremely difficult to predict accurately and the judgment on intolerability is subjective. The eligibility requirement that is based on an inability to live independently rang alarm bells with many disabled people and their representatives who contacted the committee, because it raises issues of definition, clarity, subjectivity and possible unintended consequences. Those people also pointed out that a person's life might be rendered intolerable by a society that fails to provide sufficient and appropriate support for people with disabilities, which is clearly an equality issue.

Under current national health service law, health service personnel cannot give the end of life assistance that the bill seeks, and nor can NHS premises be used for it. That raises the equality issue of affordability. Those who live in remote or island communities would also face issues of accessibility of such a service.

Other concerns, which I do not have time to deal with, were raised. As I said at the outset of my speech, the bill's principles are flawed. In keeping with my sincerely held belief that the dying will be best assisted through improving palliative care, I reiterate my opposition to the bill, which I will vote against at decision time.

16:26

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** I am pleased that the Parliament is debating the bill this afternoon. Whatever the result of the vote at 6 o'clock, it will not be the last vote on the issue. When I brought the subject to the Parliament for the first time several years ago, one colleague said that she opposed my bringing it to the chamber. Another issued a press release that said that I would put at risk the lives of people with depression.



The subject is serious. It raises concerns and involves people's heartfelt and sincere views. I will address three points: whether the issue is one of absolutes; the challenge between practicalities and principles; and consistency.

The issue is not one of absolutes, although some wish it to be. Some think that the issue is a black-and-white question of the sanctity of life—they think that it is only in God's gift to give life and that only he can take it away. I understand and appreciate that argument, but for it to be valid it can be only an absolute position. Those who use the argument for the sanctity of life against the bill cannot support abortion in any circumstances and can support no deviation from the argument, so they oppose the bill, but they allow the courts to continue to have the right to end people's lives if they are mentally incapable and living on hydration and nutrition alone.

I regret the use by some of an absolute position to suit their argument when they often seem to be more relaxed about other matters. That is because absolutist arguments are problematic in the world, although I understand the attraction of the mask of certainty that an absolute position can give some people—it can be a comfort, and some seek to cling to it in a world of moral shades of grey.

One faith in Scotland took an absolutist view to oppose categorically the use of condoms, but now that argument is not so absolutist after all.

The church leader of another faith group—the moderator—opposed the bill for reasons that I do not share but which I understand. One of his predecessors, Dr Alison Elliot, said of my proposals:

"There may be examples where the tension between life as a gift from God, and the belief that God does not want people to suffer becomes so unbearable that it leads to a re-examination of the question."

She also said:

"I don't believe that God wills people to suffer."

That perspective is interesting and humane. It seeks to balance the tensions between what some people see as God's rights and will and what others who might not hold such strong views want for their lives. One individual—whom I can only assume was tortured—felt that my 2005 proposal undermined the sanctity-of-life argument so much that he said that he would come and kill me.

We are discussing the principles of the bill. The issue is not purely practicalities. I suspect that today, most colleagues will not take the stance that they take on other bills, when they say that the principles are okay but there are major problems that we can address through the legislative process, because this is a different bill—I recognise that.

There are genuine issues about whether there may be a slippery slope, about the impact on the medical profession, about the way in which the law and the police operate and, indeed, about palliative care in Oregon—although I met the hospice association in Portland when I visited Oregon, and I do not entirely share Mr McMahon's views on that matter. Those are important practical issues, but they are not the principal ones.

I believe, Presiding Officer, that when you or I, or any other member in the chamber, are dying, the principal question is what control we have over the precise timing, location and circumstance of our passing. I would like the law to allow me the greater right, even if I choose not to use it. However, I would not like someone who may not have the same faith views as me or who may take a different stance on other issues to deny me that right.

Many hundreds of people have got in touch with me over the years on this issue. I have always been careful about using individual cases, because the saying that hard cases make bad law is not a made up one. However, I will quote from a letter that I received in the summer from a man who wrote to me, because it is very relevant to the debate. He said:

"My mother suffered a massive brain haemorrhage on April 16 ... & at Edinburgh Royal Infirmary we were told to prepare ourselves as she wouldn't survive the evening once the life support machine was switched off. This was not the case and my mother didn't pass away till 21 April ... My mother had always told us that should anything happen to her & she wasn't able to survive in her full self, she would want her life to be ended. The consultant had made the decision on April 16 that my mother's life would come to an end as she wouldn't be able to survive with the extent of her brain injury. My questions have now been going through my head as follows: which of the following is more humane—

- Following my mother's wishes to end her life
- Allow her family to be at her bedside for 5 days watching her die. Remembering that during those 5 days she wasn't fed or receive liquids.

This is the most upsetting part of losing my mother thinking that she starved or dehydrated to her death. The doctors claimed she wasn't feeling pain etc but how could they guarantee this?

I think the 'Death with dignity' debate should be raised and fully explored for all people to have the right to die with dignity.

Once death came to my mum, I took great comfort seeing her finally at peace and have nothing but great praise for the nurses at Edinburgh Royal Infirmary for the care they gave my mum & my family during those 5 heartbreaking days.

I must apologise if my letter seems a bit of all over the place but hope you understand my points."

Such modesty. The letter encapsulates so much of my own thoughts that I wanted to share it with members.

The law in Scotland today allows doctors and judges to remove life-sustaining treatment from people with the full knowledge that that act will end the life of the patient. The law allows that for children and for those who are not mentally capable. If we are in a state where we can ask for treatment to be withdrawn, the law allows for it to be withdrawn, knowing that that will end our life. The law allows the right to die if courts and others make that determination. I do not believe that that is consistent or fair, and that is why I want the law to change.

16:33

**Michael Matheson (Falkirk West) (SNP):** I, like other members of the End of Life Assistance (Scotland) Bill Committee, thank those who took the time to submit evidence to the committee or to present evidence to it directly. I also acknowledge the work that Margo MacDonald has done to get her bill to this stage.

One of the most challenging aspects of the bill has not been trying to deal with some of its technical deficiencies, of which there are many; it has been trying to address the fundamental aspects that underpin the bill, which raise substantial moral and ethical issues.

The bill has largely polarised views. The evidence that we received did not contain much in the way of, "I maybe support it or I maybe don't." People tended to be either for it or against it.

Before I move on to some of the technical issues with the bill, I will try to address, in the limited time available to me, two central components of the bill: autonomy and dignity.

The bill, in principle, hinges on the concept of personal autonomy, that an individual who is terminally ill should have the option to be prescribed medication to end their own life or to have it administered by another individual—assisted suicide or voluntary euthanasia. However, in my view, there is a contradiction in the concept of personal autonomy as it is presented in the bill. I will outline why that is the case.

If I accept in principle the concept that an individual's personal autonomy should be respected in order that they be able to end their life, it seems illogical that the bill should place limitations on that autonomy. For example, why should someone who is diagnosed with a terminal illness have to wait until they are not likely to live much more than six months before their personal autonomy is respected? Why should the person's autonomy be limited until they find life intolerable and/or are no longer able to live independently?

A variety of checks and balances in society impact on personal autonomy for us all. Over the years, the courts have acknowledged the right to a private life, but they have also acknowledged that that right may have to be tempered in the interests of wider society. I respect the fact that some individuals and groups feel that the balance is not always correct—on occasions, that might be the case—but the bill's impact must be considered in the wider context of our society, and I do not believe that the concept of personal autonomy that it proposes is in wider society's interest.

**Margo MacDonald:** I reiterate my respect for the consistency of Michael Matheson's views, but he and I differ on autonomy. I would like him to hear what Dr Jack McPhee, a retired general practitioner, said:

"At its heart, this bill is about compassion for patients and respect for self-autonomy, and opponents of the bill should therefore have very good reasons for opposing it."

**Michael Matheson:** He is entirely entitled to his view, but members must make a judgment on whether they support the concept of personal autonomy in the bill.

I turn to dignity, which is the second important concept that underpins the bill. The bill makes a direct link between assisting someone to die and the concept of dignity. It was clear from the evidence that we received that there is no agreed definition of dignity. There are those who believe that the only dignified way of dealing with suffering is through ending life, but there are others who believe that dignity is inherent and remains with a person no matter the circumstances.

I, as a committee member, have to make a judgment about which side of that divide I stand on. I believe that dignity is inherent and that the key to preserving it for people who are terminally ill is to provide good-quality palliative care and to respect the individual in their dying days. It is not helpful to link dignity to the process of death in the way in which the bill does. As the committee recognises, it is impossible to achieve agreement on the definition.

As other committee members said, there is clarity in Scots law on assisted dying or voluntary euthanasia: it is illegal. The arguments on legal confusion are not justification for trying to change the legislation in Scotland.

I turn to a couple of aspects of the bill on which there are serious concerns.

The bill's policy memorandum seeks to draw comparisons with other jurisdictions that have comparable legislation. However, the committee found that no other jurisdiction has comparable legislation.

The member in charge calculated that 100 people per annum may use the bill's provisions if it is enacted. That figure was based on findings from Oregon. However, in Oregon, only assisted suicide, not voluntary euthanasia, is available in statute. We would be better drawing a comparison with the Netherlands, which would suggest that the number would be 10 times greater—1,000 people per annum would use the bill.

I do not believe that the bill is in Scotland's interests. I hope that members of the Parliament will support the committee's recommendation.

16:40

**Karen Gillon (Clydesdale) (Lab):** Margo MacDonald is a politician I admire and respect. When she intervened in the members' business debate all those months ago, the tone and nature of this debate changed. We all knew then that this day would come.

I cannot pretend to know how it feels to live with a terminal illness. I also do not know how it feels to have a permanent disability—to be someone for whom life has become intolerable—but I know that the decision on the bill is one of the most important decisions that we as a Parliament will have to take. The consideration of how we as a society care for the vulnerable and dying is hugely emotive, complicated and deeply personal. The very fact that we have a free vote on the bill demonstrates that the question at stake supersedes even our party principles. How we view death and care for the sick and dying reflects the values at the heart of our society that shape who we are. We are a society of not only individuals, but families and communities. The choices that we make about death impact on our whole society.

Interwoven on our mace are the words justice, compassion, wisdom and integrity. In this debate, we need those attributes more than ever. Whether to have a choice about when and how to die has provoked much emotional and philosophical discussion among many of our constituents. That was demonstrated by the fact that over half of the responses to the committee's consultation came from private individuals. Many members have had correspondence from constituents on the matter. I undertook to seek the views and opinions of my constituents by leafleting their homes, placing articles in my local newspapers and hosting community meetings.

I listened to family members who had nursed loved ones with a terminal illness and to people with a terminal illness. At times, it was a harrowing and difficult experience. Strong views were expressed on both sides of the argument. I will not go through all the things that I was told but, in

many ways, they shaped my view on the bill. I had preconceived ideas about what people would tell me when they came to see me. One constituent had a degenerative form of multiple sclerosis. I assumed that he would support the bill, but he told me that, although that was initially his position, the more that he had thought about it, the more his view changed. He decided not to support the bill because, if it went through, the progress that had been made in finding a cure for MS would be set back. The pressure to find a cure would be removed if people such as him, who face death, found a way out. That view was not shared by others, but it was his view.

In this stage 1 debate, it seems right to focus our discussion on the legislative interpretation of the philosophical debates that frame the proposed changes. The question of dying with dignity and making an autonomous choice when life is intolerable offers significant challenges in legislative terms. The definitions are loose, subjective and malleable; they depend on a personal philosophical position or experience. I respect Jeremy Purvis's position. I respect his right to have the views he expresses, but he must also respect my right to have a different view. As a Christian, I have views and value systems, too. As Michael Matheson articulated, where someone stands on the definition of dying with dignity is a matter of individual choice.

**Margo MacDonald:** I thank my friend for giving way. The point is that our differing views do not enjoy equality in law.

**Karen Gillon:** It is up to us to make the laws, on the basis of the evidence that we receive. We are legislators. That is why we are here, and that is what we will do today. On the basis of the evidence, a committee of this Parliament has determined that there is no need for a change in the law. At 6 o'clock, it will be for each member to examine their conscience and to vote on the bill in a free vote. Just as for any other bill, we will be accountable to the people who elect us to this place—the people of Scotland. Just as they do on every other vote and every other decision that we take, they will hold us to account through the ballot box and can decide to replace us.

Margo MacDonald is right. If the bill is not successful tonight and she is re-elected, she or any other member will be able to bring it back to the Parliament—that is democracy. People have the right to vote. That is the beauty of democracy. Each of us has the right to express our views and to assess the evidence that is before us. On the basis of the evidence that I have heard, I am not yet convinced that the bill is the right thing for Scotland. I respect Margo MacDonald's right to bring it to the Parliament, but I am not convinced that its time has come.

16:46

**Ian McKee (Lothians) (SNP):** As a member of the bill committee, I join others in thanking the clerks to the committee and all those who gave evidence, as well as fellow committee members, who gave the bill a great deal of attention.

We heard a lot about the organisation Care Not Killing in the opening speech, and who could disagree with the general proposition in that name? However, it is a false dichotomy in the context of the debate because it implies that those who support the principle of the bill somehow do not care, and that people beg for an early death simply because care is being withheld. Yet the truth is that although enormous progress has been made in the field of palliative care—in my professional career, I have been one of its biggest supporters—there are some people whom palliative care cannot help. I found that out in my years of general practice, but members should not take my word for it.

In evidence to the bill committee on 14 September, Dr Hutchison, medical director of the Highland hospice, freely admitted that there were such patients and honestly admitted that he did not know how to help them. Elaine Stevens of the Independent Association of Nurses in Palliative Care made the same admission, but said that she would be a partner in their distress. I do not doubt the good intentions, but if I were a patient who was beyond the help of palliative care, I would want a little bit more than that, and I would not want to wait until new drugs were invented. It is because such patients exist that I support the bill's general principles.

Let us look at some of the grounds of opposition to the principle of the bill. There are religious objections; only God should take away life. I respect those objections—although I was puzzled that some people who gave that evidence to the committee also seemed to be in favour of capital punishment—but the bill would not force anyone to do anything. I believe strongly in religious freedom as a right, but not as a right to deny others the right to follow their own beliefs.

What is the dignity, the loss of which the bill talks about? Michael Matheson said that there are two different kinds of dignity and that agreement cannot be reached on a definition. The Catholic church, among others, argued that as dignity was an inherent part of being a human, it could never be lost, but in evidence that it submitted on a different bill, it submitted that women who enter prostitution lose their dignity, and so they may. The fact is that there is dignity that can be lost, usually temporarily, but which may be lost permanently towards the end of life. Although that definition of dignity may be subjective, the belief of someone that dignity has been lost can be tested

much more objectively; the same is true of finding life intolerable.

The position as regards autonomy is similar. No one has the right to absolute autonomy, as that might involve infringing someone else's autonomy. If I commit suicide by driving a busload of pensioners over a cliff, I am infringing their autonomy. I accept that to allow someone to receive help to end their life on a mere whim would have such a negative effect on society that it should not be allowed. That answers Michael Matheson's question. Some types of autonomy do have an adverse effect on society and should not be allowed. However, do we tell someone who is in severe, unimaginable, unrelievable and permanent distress, and whose relatives are begging for the help that the patient so ardently desires, that the needs of society are more important than their misery?

I assure members that any idea that pharmaceutical companies will stop doing research into diseases such as multiple sclerosis because one or two people avail themselves of such legislation is entirely wrong. Pharmaceutical companies do such research for profit, and there would be a large profit to be made by anyone who found a cure for multiple sclerosis.

Is it not the ethical role of the doctor to prolong life rather than to end it? Yes, most of the time. It is also the ethical role of the doctor to show compassion and, sometimes, those two roles clash. There is a widespread myth, fostered by the BMA, that the majority of doctors are against any form of help to end life prematurely. However, the BMA's decision was based on a meeting of 500 UK doctors, of whom only 50 were Scottish, four years ago, whereas we heard evidence from the Scottish branch of the Royal College of General Practitioners, which surveyed 4,000 out of 5,000 GPs in Scotland, and found that about half are in favour of the principles of the bill. The same is true of the nurses. The Royal College of Nursing withdrew its objection to the bill because so many nurses are in favour of the principle. Compassion sometimes wins over abstract principle.

I ask members to support the principles of the bill. If they do not, I hope they do not ever have the experience that I have had of having to look into the eyes of someone who is in their terminal agony and explain that I have the means to help them but am forced to withhold it.

16:52

**Patrick Harvie (Glasgow) (Green):** I echo the respect shown to Margo MacDonald as the member in charge of the bill, and that which she offered to Jeremy Purvis. Over the years, both members have moved the debate on significantly

and, even if today is not the last word, the chamber should thank them.

Jeremy Purvis referred to some of the religious arguments that have been advanced on the issue, and Margo MacDonald referred to the support that she has received from good churchgoers. Of course, we are aware that many in the churches have expressed their views directly to the Parliament about how the idea of assisted suicide fits or does not fit with their belief system.

I could stand here and make a speech about my belief system and how it relates to the bill and the ideas that it contains, but surely the point is that the democratic institution of the Parliament should not privilege any particular belief system and impose it on those who do not subscribe to it. Religious belief or subscription to a doctrine can be the basis of a person's moral life; they might value it highly, and we should all respect that. However, our society and the secular authority of the Parliament must not become a means of imposing such a religious position on everyone. Our authority does not come from a deity or a holy book, even for those of us who believe in deities and holy books. Our authority comes from the electorate.

So the only way in which I can begin my argument is with the principle that a life belongs to the person who is living it. It does not belong to anyone else. People approach difficult choices such as how to face and whether to take control of the end of their life in different ways, based on their values and beliefs. In reply to Michael Matheson, I say that I have never heard anyone argue that assisted suicide is the only way of achieving a dignified death. The only central argument is that each of us is the one who is best qualified to make that decision in respect of our own life.

On the principle of autonomy, the law is of course needed because people sometimes make choices that wider society cannot tolerate, generally because of some harm inflicted on other people. Suicide used to be regarded in that way—not tolerated and not legal—but that is no longer the case. We mourn a suicide. We question ourselves, or at least we should. We question our society about the causes and contributory factors, and we try to improve wellbeing in society. I hope, however, that none of us would want to regard suicide as an offence.

For any person to take control at the end of their own life, on their own terms, may be regretted and grieved over and may be distressing and traumatic for other people, but I cannot see why it should be criminal, even if that person needs to ask for help from someone who is willing to give it in a context of care.

Many people have argued that the law must protect people against the risk that they might feel pressure to make a choice that they do not really want to make or that they would not otherwise make. That is a genuine concern, but let us remember that by rejecting the bill we would leave people in exactly that position. People who wish to make one choice would be told that they may not. They would not be allowed to ask for help; they would certainly not be given it. People who wish to make the choice would be told that they must either go abroad to do it, if they have the money and ability to do so, or must risk criminalising the friends, family or others from whom they seek help.

Does that respect anyone's autonomy? Does that protect people from the pressure that they come under to make a choice that they find intolerable and that they do not wish to make? The risk that someone could come under pressure to end their life prematurely when that is not their preference is very serious and we should not take it lightly, but nor should we take lightly the serious risk, and the reality, that people are under pressure to make the other choice when they would wish to take the option of assisted suicide.

Some people will no doubt continue to travel overseas to make the choice. My final comment is that the absence of any vociferous call for those people to be chased down and prosecuted for travelling overseas for an illegal purpose suggests to me that we do not consider those people to be criminals. We do not consider them to be people who pose a threat to others or wider society. If we did, as for travel overseas for other illegal purposes, we would prosecute them. We do not, so let us stop treating them as criminals.

Let us recognise that this is a debate and vote on the general principles of the bill. If we want to debate the detail and whether the safeguards should be amended, we should support the general principles at decision time tonight. I certainly will.

16:58

**Roseanna Cunningham (Perth) (SNP):** I am a little puzzled by the tone taken by the proponents of the bill. They seem to be arguing vociferously against the lobbying of the churches when those who are opposed to the bill are articulating their views from an individual perspective.

The first line of my notes for the debate stated that the title of the bill is profoundly misleading. While members are apparently attacking others for making misleading arguments, in my view the very title of the bill is misleading. What is proposed is not, by any stretch of the imagination, about assistance at the end of life. Being helped to kill

oneself is the very antithesis of end of life assistance. Margo MacDonald would have been a bit more honest if she had simply called the bill what it is: an assisted dying bill.

I want the end of my life, whenever that might be, to be assisted, but I want to be assisted to be as comfortable as possible. I want to be well looked after and to be supported in all the ways—medical and non-medical—that are necessary and available. This bill provides for the polar opposite.

**Margo MacDonald:** I wonder whether the member could clear up a couple of points. First, can she point to any section in the bill that says that she will not be properly supported and nursed up until the point at which she wishes to end her life? Secondly, does she find the bill morally repugnant?

**Roseanna Cunningham:** With the greatest respect to Margo MacDonald, she spent her entire opening speech not assessing or discussing the bill at all. It is not for me to go through her bill nitpicking, although there are some practical points that I want to make. The fact is that the unintended consequences and negative impacts of the bill are as Michael McMahon indicated. I endorse everything that he said in respect of the potential impact on palliative care.

None of us has a great deal of time in which to speak. I will pick up a few practical points before going back to the bigger issues. If the bill were approved by the Parliament, it would make a huge number of people passively or actively complicit in every act of assisted suicide unless they opted out. That is not just about the medical practitioners; it is about everybody who is involved in processing the entire thing. Will they all be able to opt out of the process? The committee commented on the bill's references to medical practitioners' involvement, but the questions go far beyond that and I believe that they are being dodged by the bill's proponents. Will every medical practice be required to have someone who is prepared to do this?

**Margo MacDonald:** No.

**Roseanna Cunningham:** If so, does that not make them all complicit? If not every practice, will every health board have to make someone available, with the same consequences? What happens if a health board or a practice cannot come up with enough willing practitioners? Will individuals then be pressured into it? Will anyone in any capacity be able to opt out of activity that would enable this activity to take place? Will I have a right to know who the willing practitioners are? Will my right to refuse treatment from any such practitioner be protected? Will doctors, nurses and others be required to proactively raise with patients the possibility and availability of assisted

suicide even if they are adamantly opposed to the practice and do not wish to be involved in it?

**Margo MacDonald:** No.

**Roseanna Cunningham:** I hear Margo MacDonald say no, but that is not what the BMA thinks. The BMA thinks that that would have to happen.

**Margo MacDonald:** Will the member take an intervention?

**Roseanna Cunningham:** Many other such questions could be asked. I, for one, would not under any circumstances wish to be treated by any medical practitioner who was prepared to help someone to kill themselves, however supposedly pure their motives.

There are far bigger questions than that. There have been some thoughtful comments about the balance between an individual's right to autonomy and the interests of society. The bill is about the social sanctioning of suicide. We are individuals, yes, but we live as individuals in society. We do not have the absolute right to elevate our individual desires above the good of society. Not even the most utilitarian of utilitarians would have argued that case.

Like the committee, I have found the use of the word "intolerable" a huge problem. Of course it is subjective and could never be anything else. Enshrining such a subjective concept in legislation is very worrying; after all, by definition, it could be argued that there would be no suicide or attempted suicide unless an individual already felt that life was intolerable. Yet we spend significant amounts of money on anti-suicide strategies. Why? Because we instinctively know that, although suicide may no longer be a crime, it is still wrong.

**Margo MacDonald:** Is it a sin?

**Roseanna Cunningham:** We, society, have failed if an individual wants to commit suicide.

Margo MacDonald's comments out of right field indicate an unfair and prejudiced attitude towards those who argue strongly against the bill. That attitude is based on an assumption that everybody who argues against the bill is doing so from a faith perspective. That is not the case, and it is a wrong assessment to make of the arguments.

Margo MacDonald may argue that the requirements in her bill go beyond someone simply finding life intolerable, as they include reference to physical incapacity and/or terminal illness. Ian McKee spent a great deal of time concentrating on the difficult issues of extreme pain. Nevertheless, the bill does not confine itself to that. I fear that, if we open the door now, sooner or later someone with a severe mental disability or

mental illness will try to argue that it is discrimination not to include that form of incapacity—and that would just be for starters. The views of Inclusion Scotland must be taken on board by the Parliament. We would be normalising a view of incapacity that, in my view, no civilised society should accept.

I am horrified at the thought that I could live in a society in which the deliberate taking of life became a public good to be publicly supported and publicly provided. No—we cannot do this.

17:05

**Cathy Peattie (Falkirk East) (Lab):** I thank the clerks to the End of Life Assistance (Scotland) Bill Committee, and SPICe, for their excellent support. I am extremely grateful, too, to our advisers, and to Ross Finnie, for his excellent convenership of the committee.

This has been an extremely difficult issue for the committee, with strong views and emotions on both sides. I lost my mum to cancer when she was only 61. Dignity for her was refusing chemotherapy, choosing to die at home and deciding when she had had enough medication. We managed with the help of Marie Curie nurses, Crossroads and an excellent medical practice, who between them provided good palliative care.

Because of her faith, my mum would never have considered end of life assistance, but I have always wondered how I would have coped if she had. That personal experience meant that I had very mixed feelings when I was asked to be a member of the committee. I was not absolutely pro or anti the issue and I had some understanding of the conflicting viewpoints lined up on either side of the debate. Contrary to the suggestion by the member in charge of the bill, I went into the committee with an open mind. From reading the 900-plus submissions, it was clear how emotive the issue is. There were many submissions against—many of them from faith organisations—and a smaller number in favour. Some of the submissions were harrowing, describing the circumstances that led people to support or oppose the bill.

When we started to take evidence, it became clear that there were conflicting views on not just the principle of the bill, but whether the bill would achieve what it set out to do. The more evidence that I heard, the more I became convinced that if the bill proceeded as written it would be the start of a slippery slope, at the end of which end of life assistance would be the favoured approach, leaving palliative care as an underfunded and less appropriate alternative.

**Margo MacDonald:** Will the member take an intervention?

**Cathy Peattie:** No, I will not. The member will have an opportunity at the end of the debate to respond to my speech.

An issue that figured prominently was that of undue influence. There are real issues there, of older people feeling that they are a burden on their family and of people being persuaded to go down the route in the bill, whatever the motivation. The measures in the bill to detect undue influence are inadequate.

There is also a lack of objectivity regarding the standard for finding life intolerable. As Pam Duncan of Inclusion Scotland said, tolerability is a subjective criterion that varies from person to person and is affected by the action and inaction of others, including the failure to provide sufficient, appropriate support.

A further requirement set out in the bill would be based on being

“permanently physically incapacitated to such an extent as not to be able to live independently”.

The terminology used applies far beyond what the member sought to include in the scope of the bill. Like tolerability, it raises equalities issues, which were highlighted by organisations representing people with disabilities. The bill could lead to most of those qualifying for assistance being people with disabilities while the vast majority of those excluded would be people without disabilities. What message would that send to people with disabilities?

In evidence to the committee, Pam Duncan linked independent living to the capacity to make one's own decisions. She said:

“Surely independent living is about me being able to decide what I need to support myself”,

but the bill does not provide for that. According to Pam Duncan, the bill says that

“if someone has to depend on someone else and they do not live independently, they could, technically, find life intolerable.”—[*Official Report, End of Life Assistance (Scotland) Bill Committee*, 28 September 2010; c 264.]

Johanna McCulloch of the Scottish Disability Equality Forum argued that to assist people who are physically incapable of taking their own life could put them

“on an equal footing with non-disabled people.”

She went on to say:

“However, as the bill is drafted, the criteria are so wide that the disability does not need to prevent someone from taking their own life; it just needs to impede their ability to live independently.”—[*Official Report, End of Life Assistance (Scotland) Bill Committee*, 28 September 2010; c 248.]

Contrary to the assertions of the policy memorandum, the bill could have a negative effect

on disabled people. It makes assumptions that would have benefited from equality proofing. Lack of an equality impact assessment demonstrates little understanding of disabilities issues.

There are also potential equalities issues in relation to people who live in remote areas, where it could prove difficult to find local practitioners, medical staff and psychiatrists who are willing to participate. I note that, without a conscience clause, there would be additional pressures in such areas.

I consider the bill to be fundamentally flawed, and I do not think that the Parliament should allow it to proceed. It will of course be up to members to decide whether they wish to support the bill at 6 o'clock this evening, but, having studied all the evidence that was presented the committee, I will not support the bill.

17:10

**Christine Grahame (South of Scotland)**

**(SNP):** I, too, pay tribute to Margo MacDonald. I also pay due regard to Jeremy Purvis, who first set the Parliament on the path of examining the issue, and to his thoughtful contribution as well as those from members with diverse opinions on all sides of the chamber.

I have changed my view on the issue, from being opposed in principle—I stress it is in principle, which is what stage 1 is about—to support in principle. I wholly respect those who oppose the principle of end-of-life assistance—or assisted suicide; I do not shy away from that expression—for religious or moral reasons. I hope that they will reciprocate and respect my democratic right to hold a fundamentally different view. I make a distinction between suicide, which is surely an act of desperation, and assisted suicide, which is an act of compassion.

Why have I changed my view? The death of both my much-loved parents in recent years made me focus on my own mortality and the manner of people's deaths, which is something many of us choose to avoid. I reflected on the marked contrast between my mother's lingering morphine-controlled hospital death, and that of my father, with his biscuit and cup of tea by his side, in his own chair in his own home among generations of family photographs.

Incidentally, when my mother was taken as an emergency into hospital for those final weeks, my sister and I were asked out of the blue, little realising then how dire her condition was, who had authority not to resuscitate. They did not ask my mother, but her two daughters, who were put on the spot. My mother's life and death in extremis was for us, not her, to decide on. She was resuscitated.

The family were told that with increased levels of morphine to kill the pain, her death would surely be accelerated. Controlling the awfulness of that pain, whatever it took, was all that we could think of. Other members have mentioned double-effect doses, and I accept *mens rea*, but, in a way, end-of-life assistance as a side effect is already an everyday occurrence in hospitals throughout Scotland.

I listened to the arguments of the member who introduced the bill, and I have considered the evidence and the committee's report. I will touch on the concept of dignity and the divergence of views in that regard. The committee's report states:

"whilst those in favour of assisted suicide see it as a means of preserving dignity in the terminal stages of life and in the moment of death, those against present an equally compelling argument that a hastened death is undignified by its very hastening ... The debates that took place in the evidence taken by the Committee served to demonstrate that it is impossible to reconcile these arguments."

I have no problem with that—of course it is impossible to reconcile those arguments. Dignity is in the eye of the beholder, who is the person going through the experience; it is highly subjective. I would not expect people to have the same views on what constitutes dignity in death.

The key issue for me is the choice that is exercised by an individual in relation to his or her own continued existence. For those of certain religious persuasions there may be an absolute prohibition on accelerating one's own death for whatever reason. I have no problem with that. They may hold that belief, but it should not be imposed on others who do not share it. I note in passing that the bill provides for an opt-in, rather than an opt-out, process. I speak as an atheist, so no such prohibition pertains to me. I must therefore consider whether I think in principle that someone with the capacity and the informed knowledge that their illness or disability is, in their judgment, intolerable—I accept that there are difficulties with that definition—and for whom the prognosis is six months or less, should have the option to choose whether to accelerate with third-party medical assistance his or her death. I must answer in the affirmative—not to say that that option should be taken, but that someone should have the option for that choice. The choice is for that person alone to make, not for others.

In life, I may choose to take medication or have a life-saving operation—or refuse. It seems, setting aside arguments of compassion, that I may reject medication when I am aware that it will accelerate death but that I cannot request such medication. That seems perverse and to defy logic and consistency. The choice as to whether a practitioner would assist would also be a matter of



choice. It would be an opt in, not an opt out. For me, that is the principle, and I will therefore support the bill at stage 1—but with many caveats.

I share many of the committee's concerns, including its concern about definitions. I say in passing that it is not an either/or; it would not be end of life assistance or palliative care, it would be both. For me, there is a point at which palliative care has to have some kind of conclusion. As I said in passing, in practical terms it is probably happening in hospitals elsewhere. However, I appreciate that the path from principle to process and practice is tortuous. I know that we will not get that far at decision time, but the member has said that, if she is re-elected, she will return to the issue afresh. It is my hope that, next time round, the proposed legislation, which endeavours to provide choice with in-built protections from abuse, will move a stage further so that we can see whether anything can possibly be put in place. I fully support a right to life. There is also a right to self-determination—which I think we are denying people at present.

17:16

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

I, too, put on record my thanks to Margo MacDonald for bringing the bill to the Parliament and giving people in Scotland an opportunity to discuss end-of-life issues. As others have said, the views that I will express are my personal views.

My starting point is paragraph 62 of the policy memorandum, which states:

"It is cruel to force a dying person suffering uncontrollable pain who wishes to die to continue living."

I have read a lot over the past year—newspaper articles, et cetera—and everything that I have read tends to focus on uncontrollable pain. My first point is on chronic pain. So often in the debate, people talk about the fear of pain at the end of life. If we had better chronic pain services in Scotland, considerably fewer people would be suffering unbearably. I take Ian McKee's point here.

I am glad that Gil Paterson is in the chamber, because he and I are the co-conveners of the cross-party group on chronic pain—a group that I have been involved with since 2000, when Dorothy Grace-Elder set it up. To be fair, there has been progress on chronic pain services in Scotland, but it is progress from a very low base and provision of services is still patchy. If we put more energy and resources into high-quality pain management and equality of access to pain services, we might not have the fear of pain that exists at present, whether related to terminal illness or not.

My second point is on the requirement in sections 6, 7 and 9 of the bill for knowledge and belief that the person is not

"acting under any undue influence in making the request."

There is no doubt but that it can be difficult to interpret the wishes of a terminally ill patient if they are delirious, confused or, as in many cases, depressed. How can a clinician be absolutely confident that a request for a life to be ended sooner does not arise from a person's state of mind and whether or not that state of mind is treatable? The bill also seems to assume that undue influence would come from a third party. In fact, any person who feels that they are a burden to their family, the health service or the state could be unduly influenced by those factors.

**Margo MacDonald:** Will the member give way?

**Mary Scanlon:** Not at the moment. I want to make this point.

Many older people who see the savings that they have built up for their families dwindling at a rate of up to £800 a week in care home fees may feel guilty that the money is being spent on them and not on their family as intended. How can a doctor, faced with an adamant patient, be sure that the patient is seeking to shorten their life because it is intolerable when there might be other reasons of greater influence? How can any doctor know the basis of an individual's value judgments and opinions?

At paragraph 124 of its report, the committee states:

"The Committee accepts that it would not necessarily be possible, in any circumstances, to determine with absolute certainty that there was no undue influence".

I would say that that influence might be from the individual in question as well as from a third party. I also agree with the committee's concerns about the definition of "end of life assistance" and its view that the terms "assisted suicide" and "voluntary euthanasia" should be used. Indeed, I believe that the best end-of-life care and assistance is good palliative care. We should be talking about better end-of-life assistance, not assistance to end life. In that respect, I commend Gil Paterson for his excellent Palliative Care (Scotland) Bill and the Scottish Government for its living and dying well strategy and action plan. I am not saying that living and dying well is the answer to end-of-life assistance and care but it is fair to mark the progress that is being made and to acknowledge the fact that more progress has still to be made. At this point I should say that there is a disappointing lack of timings for many of the strategy's action points, which I hope will continue to receive priority despite the difficult financial climate.

Last week, the cross-party group on chronic pain was told that good pain management by a pain specialist should not hasten death. That view has been confirmed in a letter from Highland Hospice, which says:

"Modern pain control is sophisticated, involving the use of a variety of drugs and non-drug measures, and is not simply a case of an inexorable increase in the dose of morphine.

Moreover, patients taking morphine in carefully prescribed doses for pain relief are resistant to side effects of the drug and the concept that life can be ended with an increased dose appropriate to the level of pain is spurious.

...

Double Effect with regard to pain relief has been overstated and provides no basis for the legalisation of assisted dying."

We should listen to palliative care consultants. For such reasons, I cannot support the bill.

17:22

**Angela Constance (Livingston) (SNP):** All politics is personal. At the nub of every debate—and more so this debate—lie our own values, beliefs and life experiences, and they inform how we vote on issues. As politicians, we like to try to rationalise everything, but often the bottom line is how one feels rather than how one thinks and I must confess that my heart usually rules my head.

I have found this issue difficult because I have been torn between my own instincts and beliefs and others' personal testimony. If—and I stress that word—the big moral issues of the day can be characterised as a spectrum between individual choice and the sanctity of life, my personal pendulum swings towards the latter and I have to say that, although the debate is not yet over, I intend to vote against the bill at this stage. Before I state my reasons for doing so, however, I should say that I am nevertheless proud to have been one of the signatories who enabled the bill to be subject to parliamentary debate and scrutiny. Nothing should be sacrosanct in this Parliament and, irrespective of our personal beliefs, we should be able to debate any issue and not only be able to defend our own position but allow our beliefs to be open to challenge. That is in the interest of all our constituents and a sign of a mature democracy and—dare I say it—mature politicians. Moreover, as a society, we do not talk enough about death and dying; indeed, we tend to avoid such matters.

My other reason for supporting the opportunity to debate the bill, despite my not supporting it, is deeply personal. I apologise to members in advance for my sentimentality. My father used to say to me that he would rather die on his motorbike with the wind in his hair than suffer a debilitating or terminal decline. That may sound

rather brash and matter of fact, but it was his personal and considered position as a result of seeing his brother dying of a lengthy terminal illness. As fate would have it, my father died on his motorbike at the age of 54. I was left wondering for a few days until the post mortem results were returned, but he was a healthy man who was taken before his time by an accident. That left a mark on me. Since then, I have wondered about the rights and wrongs of leaving people to take extreme action when all they want to do is exercise personal choice on how they can die with dignity, whatever that means.

There are no easy answers, and as a mother I feel differently from how I feel as a daughter. As a mother I never want to be a burden on my son; as a daughter I never want my mother to feel that she is a burden.

After much soul searching, I have come down on the side of those who have lobbied me to vote against the bill. However, I must be honest. I have at times resented the tone and tenor of some organisations, which have blistered the debate and misunderstood the intentions behind the bill. I note with interest that the opinion polls show that 80 per cent are in favour of the bill; in the correspondence that I have received thus far, 10 to one have been against it.

The area is difficult to legislate in. That is reflected in the many issues and concerns that the committee report highlights. I was formerly a mental health officer, so the discussions about establishing capacity struck a chord with me, and I take on board the evidence on that from the Royal College of Psychiatrists. I have also considered the concerns about the perception of change in the doctor-patient relationship and, of course, the difficulties in assessing undue influence. The crux of the problem is that the bill tries to deal objectively with some highly subjective issues. In many ways, the issue is simply too much for a member's bill.

Margo MacDonald has to be commended for her political and personal courage, but I cannot support this bill at this time. However, I thank her for bringing the issue to Parliament.

17:28

**Helen Eadie (Dunfermline East) (Lab):** I, too, thank the committee clerks, Jude Payne from SPICe and fellow committee members. Like Cathy Peattie, I thank Ross Finnie, who convened the committee very well, and I thank everyone who provided written and oral evidence.

I do not remember any occasion in the past 11 and a half years during which I have been an MSP when members have not been whipped by any political party and we have had a free vote. My

friend Karen Gillon spoke eloquently about that. Our consideration today is therefore all the more onerous. No manifesto commitment was made on the issue and there was no other reason for us to consider the matter prior to coming here. Those facts make the vote challenging for every MSP.

During the past year I have served as one of the six members of the End of Life Assistance (Scotland) Bill Committee. I entered into the work very willing to be persuaded by Margo MacDonald's case for legislative change. Like Cathy Peattie's mum, my mother-in-law had a lingering death as a result of cancer, which was very upsetting for the whole family. As Michael Matheson rightly pointed out, the autonomy of the patient is at the heart of the matter. Hundreds of representatives contacted us by letter and e-mail to inform our decisions, particularly on the autonomy issue.

We heard arguments, advanced by well-qualified individuals, in support of Margo MacDonald's proposition and against it. In the end, I was persuaded by the view that when an individual wants to make a choice that I feel is damaging to the society in which we live, that choice is wrong. The appeal to autonomy, although superficially seductive, fails to take into account the interconnectedness of us all—family, the community and beyond—and the fact that the concept of a person being a burden is inimical to autonomy, as somebody who is truly autonomous cannot, by definition, be a burden, as Angela Constance has just said.

Our committee considered international comparisons. Our written evidence told us that, in Australia's Northern Territory, the legislation was introduced in 1995 and was nullified by the federal Parliament two years later. We also considered Belgium, Switzerland, Luxembourg, Oregon and the Netherlands. As Ross Finnie said, the committee focused on Oregon and the Netherlands. I shall not rehearse the other arguments that have been presented by other MSPs. Suffice it to say that, on the whole, I share the reservations that others have expressed.

My particular concern is related to the issues in the Netherlands, where work has been done in this area since the 1970s in terms of legislation, on-going monitoring and evaluation. The research shows that, in the Netherlands, 550 lives have been ended without an explicit request. Of the jurisdictions in which end-of-life assistance takes place, the Netherlands appears to be the most regulated.

My other concerns followed from the fact that, in 2007, an evaluation showed that although nine out of 10 physicians in the Netherlands have indicated that they are sufficiently au fait with the content of the legislation, their knowledge appeared to be

insufficient. In response to the point that Jeremy Purvis made, I point out that that same evaluation stated that the information in the guidelines was not always comprehensive with regard to, for example, advanced euthanasia directives and the part that is played by nursing staff.

Many other concerns were raised in the evaluation. I cannot mention them all, but one is pertinent to my concerns. According to the evaluation, 20 per cent of all cases of life termination upon request are not reported, and non-reporting of cases is largely connected with the use of morphine as a means of life termination.

Oregon had a much less rigorous approach to data collection, which makes it much more difficult to scrutinise and evaluate its legislation robustly. All those points and more can be found in our committee's report and in the SPICe briefing by Jude Payne and Sarah Harvie-Clark, which was published in September 2010.

I had special concerns about the possibility of this Parliament passing a bill that would require a GP, a psychiatrist and other professionals to carry out duties but would not contain a conscience clause. Even though the member in charge of the bill acknowledged that a conscience clause would be accepted, the Royal College of Nursing was not convinced that that provided adequate protection for nurses.

The National Health Service (Scotland) Act 1978 does not provide for end-of-life assistance, and it follows that this issue raises the spectre of people paying private practitioners. The fact that, as we are led to believe, the vast majority of GPs would not wish to undertake these responsibilities also raises the spectre of vast swathes of land across Scotland into which patients would have to import GPs or from which parents would have to travel in order to see GPs who would provide end-of-life assistance. In equalities terms, that would be a problem in relation to the denial of access on a fair and equal basis to people in every part of Scotland and in terms of the fact that those who would be able to pay would be able to access the service and those who would not be able to pay would not. The issues that were presented to us about equality in the context of disability are important as well, as has been stated by Cathy Peattie.

The ECHR has never been challenged in the Netherlands, but if the bill that we are discussing today were passed, it could conceivably be challenged in the European Court of Justice. That is part of the checks and balances in life with which this Parliament could have to contend. That is just another reason for us to reflect carefully on the issue. We also have to consider the case of Diane Pretty. That is why I will vote against the bill this evening.

17:35

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** As we have heard, five years ago, my friend and colleague Jeremy Purvis launched his “Dying with dignity” consultation. The paper outlined his proposal to introduce a member’s bill that would allow competent adults with a terminal illness the right to receive medical assistance to end their life. I am sure that Jeremy was disappointed, but the proposal did not receive the backing of the necessary 12 members for it to proceed and so it fell. Given the failure of the first attempt to introduce such a bill in 2005, I was rather surprised when Margo MacDonald received sufficient support from 12 members to introduce the End of Life Assistance (Scotland) Bill. Having heard Angela Constance, I must say that I am impressed by Margo MacDonald’s ability to persuade her and other members that signing the bill as supporters of it did not actually mean that they supported it and was just to allow a debate.

I am not bowled over by that argument. This is a Parliament, after all; it is not a debating society. The bill is extremely serious and would have serious consequences. When members sign in support of members’ bills, they need to appreciate the serious consequences of doing so.

**Alasdair Allan (Western Isles) (SNP):** Will the member take an intervention?

**Jackson Carlaw (West of Scotland) (Con)** rose—

**Joe FitzPatrick (Dundee West) (SNP)** rose—

**Margo MacDonald:** Will the member give way?

**Mike Rumbles:** Certainly, Margo.

**Margo MacDonald:** Can the member name another forum in Scotland that allows people who are not elected representatives to have their voices heard directly?

**Mike Rumbles:** I repeat that this is a serious Parliament. There has been a huge amount of effort and concentration on the bill. Ross Finnie and the other members of the committee have done a tremendous job. We have rules in the Parliament to measure whether there is sufficient support for a bill. Members must be honest about that. If they support a bill, they have to sign a piece of paper saying that they support it. It is plain from what we have heard that members did not do that.

I believe that the consequences of having introduced the bill are twofold. First, the hopes of some terminally ill people have been raised, in that they have been led to believe that the bill has a chance of becoming the law of the land. They will be incredibly disappointed when they find out that there is no such support in the Parliament for the

bill and they will feel let down. Secondly, the many people whose fears have been unnecessarily raised by the threats to frail human life that are contained in the bill will feel that their values have been under attack. Just listening to Margo MacDonald’s astonishing attack on those who disagree with her, particularly Care not Killing, shows that to have been the case.

There are so many reasons why we should oppose the bill that I do not have time to list them all, but they have been set out amply, particularly by Roseanna Cunningham, who is not in the chamber at the moment. Only one out of six members of the committee that considered the bill wished to recommend it to the Parliament and I understand that the weight of evidence presented to the committee was massively against the bill.

The principal reason why I oppose the bill is for the protection of the vulnerable. I sincerely believe that all members of the Scottish Parliament have come into politics to change our country for the better. However, in so doing, we must always have at the forefront of our minds our duty to protect the interests of those in society who are most at risk. The vulnerable and the weak would not benefit from the bill because, if we passed it, we would risk helping to create an environment in which people consider it to be normal to bring human life to an end because of perceived burdens on family or society. That is not a society in which I would like to live.

**Margo MacDonald:** Will the member give way?

**Mike Rumbles:** I have already given way.

Margo MacDonald has claimed repeatedly, and she did so again today, that those who disagree with her are out of touch, because her bill is supported by the majority of Scots. She quotes opinion polls to back up her claims. I am astonished that, so far, no one has challenged Margo’s assertions about public opinion, apart from Angela Constance, who did well to do so. I dispute Margo MacDonald’s claims, but even if I was wrong and it was popular to support the bill, as it is popular to support the death penalty, I still would not do so.

As parliamentary representatives, we must resist the temptation to legislate because of opinion polls. In a representative parliamentary democracy such as ours, we are required to use our judgment. As long ago as 1774, the classical liberal Edmund Burke said:

“Your representative owes you, not his industry only, but his judgement; and he betrays ... you, if he sacrifices it to your opinion.”

I ask members at decision time to use their judgment on the bill and to reject it, especially as it is a danger to the weakest and the most vulnerable in our society in Scotland.

17:40

**Anne McLaughlin (Glasgow) (SNP):** I congratulate Margo MacDonald on bringing the debate to the chamber, which cannot have been easy given her personal connection to the issue and given that she is a public figure. I know that she does not scare easily—in fact, sometimes the opposite is true—but she has received fierce and sustained criticism, which nobody enjoys. Such criticism is undeserved, because it is clear that she introduced the bill for the right reason—because she passionately believes that it is the right thing to do.

I started in the debate by agreeing with Margo MacDonald. I had some discomfort—we cannot talk about ending someone's life without a degree of that—but my instinct was to support the bill on a point of principle. We are a secular society and the arguments when the bill was proposed centred primarily on the religious aspect. I respect people's beliefs, but I feel strongly that our laws should not be made—or not made—on the basis of the dominant religion in the country. For me, the subject is like many conscience issues—I might not like an activity and I might want to reduce the number of instances of it, but I believe in people's right to do as they wish with their bodies and I believe in the right of people who are suffering in the way that the bill describes to end that suffering on their own terms.

Therefore, I had planned to support the bill. However, I knew that much listening would have to be done. Enric Miralles wisely dotted about the chamber's walls abstract figures, which I initially thought were hot-water bottles, to remind us that we are being watched by the people of Scotland all the time. I would say that we are being watched extremely closely this afternoon, and not just by people in Scotland.

I received an e-mail from someone who told me that I should vote according to opinion polls that show that the majority of Scots are in favour of the bill. I disagree. On this issue, I can vote only according to my conscience. Mike Rumbles suggested that MSPs should have made up their minds completely before signing the bill proposal, but it is crucial that we—along with the rest of Scotland—listen and question and that we voice some of our constituents' views. As the letters came in, I listened and questioned.

I will quote some of the comments that I received. One person said:

"I consider it a basic human right to be able to choose when to end one's life (and in a humane manner). I am certain that this will be widely available to human beings in the future and it would be good"

if Scotland led the way

"in bringing about this change".

Another correspondent said:

"While I sympathize with Margo MacDonald and appreciate her intention, I am concerned that the passing of the Bill could have long-term undesirable consequences. Evidence from the Netherlands and the US state of Oregon where assisted suicide is currently legal, shows that it is impossible to prevent abuses from occurring."

She did not go into detail about that evidence.

Then I received a letter from a 16-year-old girl that I read a bit more carefully, because it was handwritten and was clearly not taken from a campaign website. She said that she was against the bill because she worried that older people with degenerative conditions who were perhaps in care homes and who felt that they were a burden to their families and their country would feel under pressure to end their lives prematurely because they were no longer of use to anyone. That comment struck me. I expect that family members who would put someone under such pressure are few and far between but, in my experience, many older people do not need such pressure to be put on them—they feel it already. That was when I started to worry.

In her last year, my grandmother often apologised for what she said was us having to visit her, when there was no "having to" about it. She was an amazing woman—a great laugh and very un-granny-like. She told us brilliant stories that members would not thank me for repeating in the chamber and she was a tremendous influence on all in my family. We and everyone else in her life made that clear to her, but she had a deep-seated belief that she was a burden and was no longer of any use. Whatever we said, something inside told her otherwise.

I do not believe that my granny's response was uncommon. I do not know whether the issue is generational, female or geographical. Whatever it is, it is real. My single biggest concern about the bill is that people like my granny and others I know would choose to end their lives not because they wanted to but because they felt obliged to.

**Jeremy Purvis:** Will the member give way?

**Anne McLaughlin:** I do not have time.

I note Professor Ganzini's evidence on lethal injections and her experience when asking patients whether they felt that they were a burden. She said:

"I frequently see the family in the background saying that they would be honoured to take care of them and would like the opportunity, but the individual does not want it."

She describes such people as

"a group ... for whom being independent and in control and not having other people take care of them has been a lifelong value."—[*Official Report, End of Life Assistance (Scotland) Bill Committee*, 7 September 2010; c 63.]

Although I identify fully with that group of people—Professor Ganzini's remarks really struck a chord with me—I strongly argue that enacting the bill will see a shift in societal attitudes and will put the option of assisted dying before people to whom it currently does not occur. Some of those people will be the older people I have talked about.

However, to me that is not an argument for voting against the bill at this stage; it is simply an argument for ensuring that stringent amendments are lodged when we have the opportunity to do so at stage 2. If I am still not satisfied then, I will vote against the bill. Today I will vote for it, because it is not about our telling people that their lives are not worth living but about respecting their right to tell us when life is no longer bearable for them and their right to decide whether they wish to continue suffering.

17:46

**Margo MacDonald:** We have had a good debate today. I said that I was proud that the Parliament was dealing with the issue and have had no reason to change my opinion, although obviously differences of opinion and morality have been expressed. I sincerely hope that the Parliament can encompass all of those. I thank the people who have made an effort to be here, because some of them have made an almost superhuman effort to bear witness to our proceedings.

As I said at the start, we are not alone in our deliberations. In a Radio Europe broadcast last week, the presenter informed me that assisted death, among other end of life issues, is being discussed across Europe. Interestingly, he also told me that our poll figure of 77 per cent in favour of assisted death was consistent with similar polls that have been conducted elsewhere in Europe. I understand why members have argued that we should not be influenced too much by opinion polls, but the polls that have been conducted on the issue have been consistent—so consistent that they are guiding the deliberations of the people who are considering the matter in England.

I am glad that at the end of the debate there will be a free vote, as it signifies that each MSP is free to use his or her judgment on whether the bill would enhance or harm the whole community. In a free vote, MSPs must also balance their own conscience with the need to reflect their constituents' wishes.

Most, if not all, MSPs who adhere faithfully to the teachings of their church, mosque, synagogue, temple or meeting place will find themselves fundamentally opposed to the bill because, according to their beliefs, it usurps the place of

God, whom they believe to be the only giver and taker of life. In short, they find the bill morally repugnant and ethically unacceptable. MSPs who find the bill as I have described can never vote for assisted death without setting aside their conscience. I hope that Mr Rumbles will take note when I say that none of us has the right to expect them to do so. The correct action for them is to explain to their constituents why they could not vote for a measure with such a proven level of support among the general public.

Many MSPs are probably not opposed to the bill in principle but have been inundated with communications from faith-based organisations. My advice to any colleagues who are in that position is to vote for the bill to proceed to intensive scrutiny, during which they and I will be able to amend provisions that need to be sharpened or explained better. I am grateful to Anne McLaughlin for making that point.

Whereas colleagues whose opinions and beliefs derive from their religion will continue to oppose the bill regardless of any amendment, others whose beliefs are not based on a particular religion are free to respond to their constituents' suggestions and ideas. That latter group of MSPs, their constituents and I know that, if they oppose the bill and neither their conscience nor their firm belief that the bill is so bad that it cannot be improved by amendment stands as a barrier to the public's desire for the Parliament to support and act on the bill's principles, they have opted out of offering the leadership that the electors have a right to expect of their elected representatives.

**Tricia Marwick:** Does Margo MacDonald agree that, over the 11 years that the Parliament has existed, we have been faced with many provisions—such as those on same-sex relationships and those in the Adults with Incapacity (Scotland) Act 2000—against which the faith-based organisations begged members to vote but in relation to which members voted as they wished to, and not in the way that the faith-based organisations told or lobbied them to?

**Margo MacDonald:** A different quality has been obvious in some of the campaigning on the bill. I quoted Care Not Killing's card in my opening speech, and the parliamentary briefing that Inclusion Scotland circulated says:

"the 'means of administration' might conceivably include gas (carbon monoxide or helium), ... a bullet or a push off a cliff."

Am I meant to think that that takes seriously a matter that, as members have admitted, causes great concern to a number of people who, as Mike Rumbles said, could be disappointed if the bill is stopped in its tracks?

**Margaret Smith (Edinburgh West) (LD):** Does my colleague honestly believe that any MSP will vote on the basis of the passage that she just read out?

**Margo MacDonald:** Roseanna Cunningham said that we had to accept what Inclusion Scotland informed the committee as being the opinion of disabled and vulnerable people. That is why I quoted the publication.

I appeal to MSPs who have perhaps been overly influenced by that campaign but not convinced by its spurious claims about the bill to examine their own conscience. I urge MSPs whose beliefs allow them to contemplate improving the bill not to duck for cover but, instead, to take account of the weight of public opinion and either vote to continue the bill or abstain from voting.

**Mike Rumbles:** The point that I made was that we should ignore and not bow to public opinion, whatever it says, and that we should make the right judgment based on the information that we have and our views.

**Margo MacDonald:** I already explained that I fully respect the right of MSPs to individual conscience—indeed, I guard it—but if that conflicts with what appears to be a fairly obvious public point of view, it is up to the member to explain that to his constituents. That seems to me to be perfectly moral and honourable.

Jeremy Purvis went to the heart of the matter. He also talked about the difference between the practical and the moral. That is what has been difficult about the debate. Some members are more concerned with the morality of the debate, and others are concerned with the bill's practical provisions. I freely concede that, if we go on to stage 2, amendments will be made that will improve and clarify the bill.

Mary Scanlon talked about the lack of guidance that is given to doctors, but the General Medical Council usually gives doctors good guidance on matters that involve sensitivities beyond those that they encounter in their normal, everyday practice, so I have more trust in the professions than was expressed in some of the speeches that we heard.

Members also asked how doctors would know whether a patient was coming under undue pressure. That is the sort of professional judgment that doctors—including general practitioners—psychiatrists, clinical psychologists, and consultant nurses make every day. I do not have the same fears that others have expressed. If those fears were relevant to the debate, I am absolutely certain that we would have found an echo of them in regimes where this practice has been in place for 10 years.

**Patrick Harvie:** Anne McLaughlin argued that some people who feel under pressure under the current legislation may come under pressure if the legislation were changed. However, the point is that people who wish to make the alternative choice come not only under irresistible pressure but the threat of criminality. Does the member agree that an unfair and unreasonable judgment is made when we class one form of pressure as abuse while ignoring the other form of pressure?

**Margo MacDonald:** The member put better than I have done the inequity of approach to the moral question that we have seen demonstrated in some cases.

The bill is about not only morals but people. A lady from Dundee whose husband died two years ago got in touch with me today. She said that

“he had insight into his condition knowing he was losing his personality, his talents and eventually his dignity. He hallucinated regularly”—

The lady gets to the quick of it. She mentions dignity, but there seems to be an unwillingness on the part of some members in the chamber to accept that dignity is a subjective notion. I fully accept that many members have a different sense of dignity from me, but who is to say that their sense should be preferred to mine in relation to legal protection? That does not seem equitable to me, and is one point that I sought to establish with the bill.

The lady from Dundee went on to tell me that her husband

“was treated like an errant child, being told the GP did not ‘do’ euthanasia but he would be treated with dignity and respect when his time came.”

She denies absolutely that that is what happened, talks of the hell that her husband experienced at his death and wonders who benefited from the law being applied in that way. The bill questions whether the present law protects sufficiently the minority of people who cannot be assured of a dignified and peaceful death.

We have heard much about palliative care in the debate. There is no conflict between palliative care and someone at the end of such care saying to a nurse or doctor, “I have had enough. I want to go now.” I believe that that is their decision to make. Opponents of the bill do not believe that. I am not at all sure that we will be able to reconcile the gap between us.

I am working on the assumption that there are MSPs who feel that there is more that has to be delved into. My appeal to them is this: do not dump the bill at this stage. We have said what we have said about opinion polls, but we all know, as do people on the street, that there is public support for the principle of autonomy in a person

determining the last act of their own life. That principle may not have majority support, although I believe that it does. Opinion polls—much derided as they are—guide us on many other things. We can derive from them some feeling of decency in the questions that they asked and put some sort of faith in the answers that they came up with. If we do that, we will not kill the bill this afternoon.

## Business Motion

17:59

**The Presiding Officer (Alex Fergusson):** The next item of business is consideration of business motion S3M-7514, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a business programme.

*Motion moved,*

That the Parliament agrees—

(a) the following programme of business—

Wednesday 8 December 2010

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Ministerial Statement: Future Budget Planning Assumptions

*followed by* Equal Opportunities Committee Debate: Scrutiny of the Mental Health (Care and Treatment) (Scotland) Act 2003

*followed by* Stage 1 Debate: Property Factors (Scotland) Bill

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

6.00 pm Decision Time

*followed by* Members' Business

Thursday 9 December 2010

9.15 am Parliamentary Bureau Motions

*followed by* Debate: Scotland Bill

11.40 am General Question Time

12 noon First Minister's Question Time

*followed by* Members' Business

2.15 pm Themed Question Time  
Justice and Law Officers;  
Rural Affairs and the Environment

2.55 pm European and External Relations  
Committee Debate: Report on the  
Impact of the Treaty of Lisbon on  
Scotland

*followed by* Ministerial Statement: Local Government Finance Settlement 2011-12

*followed by* Parliamentary Bureau Motions

5.05 pm Decision Time

*followed by* Members' Business

Wednesday 15 December 2010

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Scottish Government Business

*followed by* Stage 3 Proceedings: Forth Crossing Bill

*followed by* Business Motion



*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 16 December 2010

9.15 am Parliamentary Bureau Motions

*followed by* Scottish Government Business

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time  
Finance and Sustainable Growth

2.55 pm Scottish Government Business

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

and (b) that, for the purposes of Members' Business on Thursday 9 December 2010, "at the end of First Minister's Question Time and at the end of the meeting following Decision Time" be substituted for "at the end of the meeting following Decision Time" in Rule 5.6.1(c) of Standing Orders.—[*Paul Martin.*]

*Motion agreed to.*

## Parliamentary Bureau Motions

18:00

**The Presiding Officer (Alex Fergusson):** The next item of business is consideration of three Parliamentary Bureau motions. I ask Paul Martin to move motions S3M-7515, S3M-7516 and S3M-7517, in the name of Bruce Crawford, on the approval of Scottish statutory instruments.

*Motions moved,*

That the Parliament agrees that the Budget (Scotland) Act 2010 Amendment (No 2) Order be approved.

That the Parliament agrees that the Fishing Boats (EU Electronic Reporting) (Scotland) Scheme 2010 be approved.

That the Parliament agrees that the Official Statistics (Scotland) Amendment Order 2010 be approved.—[*Paul Martin.*]

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

A further item of business is consideration of another Parliamentary Bureau motion. I ask Paul Martin to move motion S3M-7518, in the name of Bruce Crawford, on the establishment of a committee.

*Motion moved,*

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

Name of Committee: Scotland Bill Committee;

Remit: To consider the Scotland Bill and report to the Parliament on any relevant Legislative Consent Memorandum;

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

Number of members: 6;

Convenership: The Convener will be a member of the Scottish Labour Party and the Deputy Convener will be a member of the Scottish National Party;

Membership: Wendy Alexander, Peter Peacock, Tricia Marwick, Brian Adam, David McLetchie, Robert Brown.—[*Paul Martin.*]

**The Presiding Officer:** That was very nicely done, Mr Martin—thank you.

The question on that motion will also be put at decision time.

## Decision Time

18:00

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

There are seven questions to be put as a result of today's business.

The first question is, that amendment S3M-7498.3, in the name of Karen Gillon, which seeks to amend motion S3M-7498, in the name of Richard Lochhead, on the annual fisheries negotiations, be agreed to.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that amendment S3M-7498.1, in the name of John Scott, which seeks to amend motion S3M-7498, in the name of Richard Lochhead, on the annual fisheries negotiations, as amended, be agreed to.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that amendment S3M-7498.2, in the name of Liam McArthur, which seeks to amend motion S3M-7498, in the name of Richard Lochhead, on the annual fisheries negotiations, as amended, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Finnie, Ross (West of Scotland) (LD)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hume, Jim (South of Scotland) (LD)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)

McArthur, Liam (Orkney) (LD)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLaughlin, Anne (Glasgow) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)

**Abstentions**

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Murray, Elaine (Dumfries) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

**The Presiding Officer:** The result of the division is: For 63, Against 0, Abstentions 39.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that motion S3M-7498, in the name of Richard Lochhead, on the annual fisheries negotiations, as amended, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Finnie, Ross (West of Scotland) (LD)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hume, Jim (South of Scotland) (LD)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McArthur, Liam (Orkney) (LD)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLaughlin, Anne (Glasgow) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)

Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)

**Abstentions**

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Murray, Elaine (Dumfries) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

**The Presiding Officer:** The result of the division is: For 63, Against 0, Abstentions 39.

*Motion, as amended, agreed to,*

That the Parliament notes efforts to secure a fair outcome in the forthcoming EU fisheries negotiations; believes that any deal must respect the need to harvest fish stocks sustainably in the interests of Scotland's fishermen and coastal communities and recognise Scotland's fishing industry's contribution to fisheries conservation; expresses concern at the significant cuts to effort and quotas for key stocks being proposed by the European Commission; urges the Scottish Government to take forward its catch quota proposals only with the full and active involvement of the Scottish fishing industry at every stage, and calls on the European Commission to support these efforts to reduce wasteful discards.

**The Presiding Officer:** The next question is, that motion S3M-7438, in the name of Margo MacDonald, on the End of Life Assistance (Scotland) Bill, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hume, Jim (South of Scotland) (LD)  
 Kidd, Bill (Glasgow) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 McArthur, Liam (Orkney) (LD)  
 McKee, Ian (Lothians) (SNP)  
 McLaughlin, Anne (Glasgow) (SNP)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Smith, Iain (North East Fife) (LD)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)

**Against**

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Allan, Alasdair (Western Isles) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Annabel (West of Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)

McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McMillan, Stuart (West of Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Murray, Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

**Abstentions**

Carlaw, Jackson (West of Scotland) (Con)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)

**The Presiding Officer:** The result of the division is: For 16, Against 85, Abstentions 2.

*Motion disagreed to.*

**The Presiding Officer:** I propose to put a single question on motions S3M-7515, S3M-7516 and S3M-7517. The question is, that motions S3M-7515, S3M-7516 and S3M-7517, in the name of Bruce Crawford, on the approval of Scottish statutory instruments, be agreed to.

*Motions agreed to,*

That the Parliament agrees that the Budget (Scotland) Act 2010 Amendment (No 2) Order be approved.

That the Parliament agrees that the Fishing Boats (EU Electronic Reporting) (Scotland) Scheme 2010 be approved.

That the Parliament agrees that the Official Statistics (Scotland) Amendment Order 2010 be approved.

**The Presiding Officer:** The final question is, that motion S3M-7518, in the name of Bruce Crawford, on the establishment of a committee, be agreed to.

*Motion agreed to,*

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

Name of Committee: Scotland Bill Committee;

Remit: To consider the Scotland Bill and report to the Parliament on any relevant Legislative Consent Memorandum;

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

Number of members: 6;

Convenership: The Convener will be a member of the Scottish Labour Party and the Deputy Convener will be a member of the Scottish National Party;

Membership: Wendy Alexander, Peter Peacock, Tricia Marwick, Brian Adam, David McLetchie, Robert Brown.

## Afghanistan Conflict

**The Deputy Presiding Officer (Alasdair Morgan):** The final item of business is a members' business debate on motion S3M-7358, in the name of Jamie Hepburn, on nine years of conflict in Afghanistan. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament notes that 7 October 2010 marked the ninth anniversary of the start of Operation Enduring Freedom by the United States' military in Afghanistan and that 20 December 2010 will mark the ninth anniversary of the establishment of the International Security Assistance Force by the United Nations; further notes that this is longer than the duration of World War I and of World War II, and nearly as long as both these wars combined; regrets the loss of life caused by the conflict, including 341 military personnel from the United Kingdom, 2,174 from coalition forces in total and thousands of civilian casualties; considers that there is widespread concern among residents in Central Scotland and across the country at the ongoing loss of life, both military and civilian, in Afghanistan, and believes that greater progress is required to be made on a timely exit strategy.

18:05

**Jamie Hepburn (Central Scotland) (SNP):** I thank those members who supported the motion, not just those of my party but Elaine Smith, Marlyn Glen and Bill Butler, whose signatures allowed it to qualify for debate.

It is right and appropriate that the Parliament should have the opportunity to debate and express our perspective on the conflict in Afghanistan. Afghanistan might be thousands of miles away, but the effect of the conflict is felt here in Scotland every day. It is felt by the families and communities of our soldiers who serve there, and especially by the families and communities of those service personnel who have given their lives in Afghanistan and of those aid workers who have been killed, such as Linda Norgrove, whose compassion and example in the work that she did should be an inspiration to us all.

We were told that the United States of America and United Kingdom presence in Afghanistan began as an attempt to capture Osama bin Laden. Of course, there are those who argue that there were other strategic geopolitical interests driving the decision to go to war. Indeed, I have to agree with the view that the desire to capture bin Laden was merely a convenient pretence. However, such is the limit of time for a members' business debate that I do not intend to focus on that area.

Instead, I will look at what we know to be fact. First, we know that military operations began in Afghanistan in October 2001, meaning that this war has lasted for nine long years. As my motion notes, that is longer than either the first or second

world wars—conflicts which left such an indelible mark on those who fought them that they were known as “the war” to the respective generations who saw battle in the corners of the globe that were affected by them. The conflict in Afghanistan has gone on almost as long as both world wars combined.

Secondly, we know that 345 UK combatants have been killed in Afghanistan, 55 of whom were based in Scotland. Also, 1,411 US military personnel and thousands of civilians—no one knows exactly how many—have been killed as a result of the conflict in Afghanistan.

Thirdly, the accumulated cost of operations in Afghanistan to the UK Exchequer has hit £11 billion, which is an amount of fantastical proportions. Despite that level of expenditure, we still hear reports of malfunctioning, outdated or inappropriate equipment, and soldiers feeling that they have no choice but to buy their own kit to supplement or make up for deficiencies in what has been provided to them.

Fourthly, despite it being the stated purpose of the incursion into Afghanistan to capture him, and despite the many casualties that have been endured, Osama bin Laden has evaded capture. I use the word “endured” advisedly. As the motion notes, the US operation in Afghanistan is called operation enduring freedom, but to endure ultimately means to suffer. In the name of freedom, the conflict has brought untold suffering to uncounted thousands of Afghan civilians, and immeasurable grief to the families of the military personnel who have been killed or injured as a result.

To what end have the military operations in Afghanistan been? Despite the cost and suffering, the purpose of the presence of US and UK troops is unclear. If the purpose of the conflict is to find and eliminate bin Laden, it has failed. If the purpose is to defeat the Taliban, we should heed the words of Brigadier Mark Carleton-Smith, the commander of UK troops on the ground at the time, who told *The Times* two full years ago that, in his opinion, a military victory over the Taliban was “neither feasible nor supportable”. If the purpose is to protect our country from terrorism, we must ask why it did not prevent the 7 July bombings or the Glasgow airport attack, and why the threat of international terrorism in the UK remains severe according to the UK Government’s standards. The military operation in Afghanistan has become a directionless quagmire.

Two weeks ago, a NATO conference attempted to find some coherence and, above all, an exit strategy. David Cameron has of course committed to withdrawing UK troops from combat operations in Afghanistan by 2015. We will see how many troops remain in non-combat operations after

2015, and we will see whether such a non-combat role results in fewer casualties, but the fact remains that, by 2015, combat operations in Afghanistan will have lasted for 14 years and will be the longest military engagement that Britain has been continuously involved in on foreign soil since the Taiping rebellion of the mid-19<sup>th</sup> century.

I believe that we should seek to withdraw combat forces from Afghanistan sooner than 2015. In doing so, let me set out that I do not believe that we should cut and run from Afghanistan. The mess that has been created by the war means that we owe it to the people in Afghanistan to find a way to undo some of the damage that has been done. First, there is the moral obligation to do so but, secondly, if we genuinely want to build a safer and more secure Afghanistan and a safer and more secure world—which is surely in our own enlightened self-interest, if nothing else—military action must play an ever diminishing role in the efforts.

History teaches us that conventional forces rarely beat an enemy fighting an unconventional guerrilla war where the enemy cannot readily be discerned. Western powers say that they wish to see western-style democracy in Afghanistan. Chairman Mao may have had it that power emanates from the barrel of a gun, but I do not believe that democracy can be imposed at the barrel of a gun.

Of the £11.1 billion that has been spent by the UK in Afghanistan since 2001, only around 10 per cent has been in the form of aid and development funding. I wonder what Afghanistan would look like if those proportions had been switched around. What might it be like if, instead of roads, hospitals and schools being taken out in the crossfire of war, the finances had been spent on building new roads, hospitals and schools?

I believe that we should redirect our focus to help ordinary Afghans to help themselves through humanitarian aid and real efforts at nation building. That is the way to build a safer, stable and more secure Afghanistan. Demonstrating genuine interest in the social welfare of ordinary Afghani citizens and civilians will build a more powerful case against extremism than any military surge or strategy ever could. It is through that peaceful endeavour that stability in the region and wider world—and here at home, too—will be promoted.

There has been too much war in Afghanistan. Now is the time to give peace in that country, which has seen almost constant conflict for my entire lifetime, a lasting chance. We must have peace, and we must have a withdrawal of operational combat forces as soon as possible. The pursuit of peace is invariably less dramatic than the theatre of war, but it is no less important.

18:12

**Bill Wilson (West of Scotland) (SNP):** The aim of the war is clear. I will quote several newspapers. It is

“to prevent the establishment of ... a terrorist regime ... to protect the Afghan people from genocide”

and to provide

“aid in stabilising the situation and the repulsion of possible external aggression.”

After victory, we are told, Afghanistan will be left to become “a stable, friendly country”.

There can be no doubt but that this invasion is a peacekeeping operation, one intended to prevent enemy atrocities. We are there, apparently, as an act of self-defence and to prevent Afghanistan from turning

“into a bridgehead for ... aggression against the state.”

We are responding to unprovoked violence by Islamic fundamentalists who plan to export their fundamentalist struggle

“under the green banner of Jihad”.

Members may not know the specific quotations, but I am sure that they will recognise them, or something similar, and will acknowledge that they are a fair reflection of our media's reporting of the present conflict. For the sake of accuracy, then, I will provide members with the sources: *Pravda*, 27 April 1980; *Red Star*, a major Soviet military newspaper, May 1985; *Red Star*, January 1988; *Izvestia*, 1 January 1980; and “Secrets of the Afghan War”, published in 1991. I should note that any similarities between Soviet reporting in the 1980s and 1990s and reporting today in the UK are, of course, entirely coincidental.

Moving past the UK, US or Soviet propaganda, why did we invade Afghanistan? Did we invade Afghanistan because we believed that extremist political Islamism—as against those who are fundamentalist in the religion—is wrong? Does that claim stand up to investigation? Let us not forget that we created the Taliban. We built them with our support for the mujahideen, which started before the Soviet invasion. However, we did not stop at merely supporting terrorism. The CIA provided millions of dollars to produce school textbooks that encouraged a warped ideology of jihad, encouraging murder and fanaticism. The claim that we are opposed to extremism does not stand up to inspection.

Are we fighting for gender equality, to ensure that women are given fair and equal treatment? Does that claim stand up to investigation? In 2002, George W Bush welcomed the new Minister of Women's Affairs, Dr Sima Samar. Shortly after, she was forced out of office on a charge of blasphemy. Now, she fears for her life and

believes that women were safer under the Taliban. We should also remember that, under the People's Democratic Party of Afghanistan, females had the right to both school and university education. The UK and the US backed the terrorism that helped to destroy those rights. The claim that we are fighting for gender equality does not stand up to inspection.

Are we fighting to protect lives? Does that claim stand up to inspection? Conservative estimates suggest that, post-September 11, US bombing in Afghanistan killed between 1,300 and 8,000 Afghan civilians. The UN assistance mission to Afghanistan claims that, in 2008, 828 civilians were killed by US-led forces and that, in 2009, 596 civilians were killed by US-led forces. I will add one more word: uranium. It is time for the UK and the US to come clean on their use of uranium in weapons. The evidence of uranium poisoning is clear. The UK must end its opposition to the UN resolution calling on countries deploying shells tipped with that radioactive substance to declare how much of it they have used and where. Failure to do so shows a callous disregard for the health of civilians in Afghanistan and Iraq as well as a callous disregard for UK personnel. The claim that we are fighting to protect civilian lives does not stand up to inspection.

Are we fighting for civil liberties and democracy? Does that claim stand up to inspection? The allegations of torture and human rights abuses that have been levelled against the Afghan Government and its supporters are numerous. I will give just one example. CBC news has claimed to have a Canadian Government report confirming that Asadullah Khalid, the head of Kandahar province, has a widespread reputation for brutality and the abuse of human rights. Allegations include his ordering the murder of UN workers and holding individuals in a private prison for his personal entertainment. The claim that we are fighting for civil liberties and democracy does not stand up to inspection.

It is time to clean up the mess and leave.

18:17

**Bill Kidd (Glasgow) (SNP):** I congratulate Jamie Hepburn on securing this important debate. It is another sign that the Parliament can and should talk about the major issues in the world and not dodge them.

Why do young men and women join the armed forces? There might be a number of reasons. It might be a natural progression from being a member of the cadets at school, a sense of adventure, a sense of duty to family or nation, or a need for a feeling of belonging. Whatever the reason, I do not believe that it will be to fight in a

war for which, after nine long and bloody years, there is no sense of the direction in which the conflict should be heading. Nor will it be to fight in a war in which a myriad of aims supersede each other almost monthly as politicians try to carry a sceptical population along, either on a tide of overt, tub-thumping patriotism or a wave of apparently altruistic humanitarianism. They most assuredly do not join the armed forces to lose their young lives or end up physically or mentally mutilated when there was no direct threat to their homeland or even the end result of an improved situation for those in the country of conflict.

**Brian Adam (Aberdeen North) (SNP):**

Although the military situation in Afghanistan is, undoubtedly, important, when will we address the war on drugs? It is the principal area of the world in which heroin is produced, which is sent to this country to cause death and destruction on a regular basis.

**Bill Kidd:** I will come to that. It is extremely important to places such as Aberdeen and Glasgow—as well as right across Scotland and the western world—that the drugs issue is addressed, and that the war is not the way to do it.

Let us remember clearly that Afghanistan has been a land of constant conflict over the centuries, where the armies of Alexander the Great, the Mogul emperors, the British imperial army of the 19<sup>th</sup> century, the might of the Soviet Union and now the combined strength of NATO's forces have all become hopelessly embroiled in the tribal warfare of a medieval state. To what end? The capture of Osama Bin Laden? Failed. The imposition of a democratic Government? How so? By replacing one group of gun-toting despots with another, who wear nice clothes? The emancipation of women? Yes, in some areas, but for how long, and how supported is that? The ending of the poppy crop and the flood of heroin on to our streets? Failed again.

What has it all been about in Afghanistan? Why could long-term negotiations with tribal leaders not have taken place? That way, the Taliban could have been isolated from the mainstream. An agricultural programme could have been developed, and small industrial units in the cities and town established. Long-term education systems could have been introduced with the co-operation of the local people.

Remember—as Bill Wilson said earlier—that the west introduced a Mad Max lawlessness through the mujahideen during the Soviet occupation. Inevitably, the mujahideen mutated into the Taliban. When we then invaded on the pretext of hunting down the mastermind of 9/11, we made it much, much worse. It has to stop now. The troops must be brought home from this quagmire, this 21<sup>st</sup> century Vietnam.

The long process of changing a medieval society into one approaching the levels of human rights and freedom from oppression that Afghanistan's neighbours are working towards developing cannot be imposed by armed force; it can happen only through negotiation and good faith on both sides.

18:21

**Pauline McNeill (Glasgow Kelvin) (Lab):** I congratulate Jamie Hepburn on securing the debate and I agree with him and others who have expressed the view that it is right that this Parliament should be able to express an opinion on an international area of concern.

The Afghan war began on 7 October 2001 in response to the 11 September attacks on the US. The public were set to believe that the war could be won without a single shot being fired, but now we mark the ninth anniversary of our forces being in Afghanistan.

The war has killed tens of thousands of civilians. The majority of people killed are civilians, but of course 335 British soldiers have been killed to date and hundreds have been seriously injured or maimed. The average age of British casualties is 22. In August, the number of deaths among our forces passed the 200 mark. Countless thousands of Afghan civilians have been killed and many millions of refugees have been created by the war.

Like Jamie Hepburn, I pay tribute to the men and women of our armed forces who have given their lives to achieve peace and security by doing their jobs on the front line. The cost in human terms is almost too awful to contemplate.

The war in Afghanistan has fully tested our principles when it comes to international law and public opinion. The legitimate aim to eradicate terrorism by seeking out those who terrorise our world is up against the occupation of a very poor country, with a population innocent of any crimes, and there is a desire to establish democracy. All those factors really test us all on what we believe in.

What we all want for the innocent people of the world and, of course, of Afghanistan, is for them to live in peace and with a prosperous future. The Scottish Afghan Society has made us quite aware of the Afghans living in Scotland and has highlighted their views about what they want for their country.

The war is causing us all a great deal of concern. It is spreading to Pakistan and is becoming very dangerous. The costs are substantial—the human costs are too high.

The Afghan people need a government that is stable, transparent and free from corruption. They



deserve nothing less. They deserve an inclusive political settlement that is about their needs and their wishes, not one that is dictated to them by the occupying forces. Too many questions remain about our presence and the ever-increasing violence.

**Bob Doris (Glasgow) (SNP):** I apologise for interrupting Pauline McNeill. I was going to intervene at the start of her speech, when she said something that I agree with, but I did not want to interrupt her right at the start. She said that this Parliament should take a view on the matter. I really respect the fact that Labour is contributing to tonight's debate. I notice that Bill Butler and a few other Labour members were in for Jamie Hepburn's opening speech.

I gently ask Pauline McNeill whether she agrees that it is a real shame and disappointment that no Liberal Democrat or Conservative members have contributed or stayed to hear the opening speeches.

**Pauline McNeill:** It obviously adds to the depth of a members' debate if all the political parties are represented, but it would not be fair for me to comment. I found it quite difficult to find time to write a speech, but I thought it was important to take part in the debate, and it is a shame that we will not hear the views of the other parties tonight.

On the deadline for leaving Afghanistan, I find it difficult to disagree with what Jamie Hepburn said. The deadline lacks a bit of clarity: we had a date of 2014, and then 2015, and now it is an aspirational date. That makes me very concerned, and I would like us to leave sooner rather than later. However, to quote Jamie Hepburn again, we should not "cut and run". We have done that in the past, but we are responsible for what has happened in Afghanistan and we should not walk away. We should do everything that we can to leave behind something better for the people of Afghanistan.

I believe that the deadline is too far away, and I will certainly press for withdrawal to be achieved sooner if possible. Nation building should be our aim, and we should take a rational approach that is not burdened by political deadlines. Too many people are questioning the 2014 and 2015 dates by saying that they are around political deadlines. I am not certain that that is the case, but the approach should be free from such concerns.

We must operate in the best interests of the people and of our own forces. That does not mean to say that we should depart from our determination to eradicate terrorism and deal with al-Qa'ida, but it is now time to think about how we can withdraw peacefully and give the people of Afghanistan the life that they deserve.

18:26

**The Minister for Culture and External Affairs (Fiona Hyslop):** I thank Jamie Hepburn for bringing the debate to the Scottish Parliament. I also thank those members who have made contributions, which have been thoughtful, informed and at times passionate.

The current conflict in Afghanistan has lasted for almost a decade and has had a major impact on families and communities throughout Scotland. As we have heard, 345 troops from the UK have lost their lives since the war started in October 2001. The war has also had a life-changing impact on hundreds of others, including the families and communities of our troops.

I join other members in the chamber in paying tribute to all those soldiers, including those who have lost their lives. Each and every death is incredibly painful and underlines the remarkable dedication and sacrifice of our forces. All parts of Scotland, including Jamie Hepburn's constituency of Central Scotland, as his motion notes, are touched.

There is enormous public support for the troops on the ground and I put on record once again the Scottish Government's admiration for the remarkable and courageous work that they are doing. They have our full support. However, as members have said in the debate, it is time for the UK Government to give greater clarity on the future of our forces in Afghanistan. President Obama has already stated that he intends to withdraw US troops from Afghanistan by July next year. The UK Government has indicated that troops will be removed by 2015, but the Scottish Government's view is that we should work towards withdrawal by the end of 2011.

It is clear that a great deal of effort will need to go into reconstruction—Pauline McNeill mentioned nation building. Too many Afghans are seeing little in the way of reconstruction, and military spending—as Jamie Hepburn outlined—still far outstrips spending on development.

There must be a focus on the long-term and sustainable development of Afghanistan. Scottish aid agencies are making a remarkable contribution to that effort and I put on record the Government's support for the aid agencies in Afghanistan. Many of the key players from the non-governmental organisation sector in Scotland are active in Afghanistan. The Halo Trust, for example, has been operating there for more than 20 years and is the largest implementing agency for the United Nations mine action programme for Afghanistan. The trust is dedicated to building local capacity and nowhere is that better exemplified than in Afghanistan, where its 3,500 Afghan staff are

managed by Afghans, with support from 10 expatriate staff.

Mercy Corps has been in Afghanistan since 1986 and is currently assisting more than 2.5 million Afghans to rebuild their lives by running programmes throughout the country that focus on agricultural and economic development to help build stronger communities. Since 1998, Concern Worldwide has focused on strengthening governance at grass-roots level and helping communities to manage their own development. Several members touched on the issue of governance and how to empower people to help themselves.

Islamic Relief, which began working in 2001, has successfully combined long-term development with food assistance, helping villagers to have a practical incentive to remain at home and easing the problems of internally displaced persons. Oxfam has established education and government programmes, making better use of agricultural training, developing Afghan capacity and improving the rights of women. Tearfund has provided humanitarian support across the country. Christian Aid is also there, empowering poor and marginalised people to improve the conditions of their own lives, be it through employment or asserting their human rights, again with an interest in promoting Afghan women's rights.

It is right that we discuss and debate international issues, but we should also recognise the number of organisations that have bases in Scotland that are supporting the national development of Afghanistan by supporting people and helping them to build their own futures.

As we mark the work of international agencies, let us not forget those who have given their lives. Just a few weeks ago, we received the shocking and sad news of Linda Norgrove's tragic death during a rescue operation. Our thoughts are with the parents, family and friends of Linda Norgrove, who made such an incredible contribution during her life. Her contribution to improving the lives of the people of Afghanistan and elsewhere in the world has a legacy that we, as a nation, can be proud of.

We should also not forget that we have a duty to look after our veterans from conflicts such as Afghanistan, and the Scottish Government continues to develop a policy to meet the needs of veterans and improve and deliver services to them. We have taken forward a range of work in the health, housing, education, employment and transport sectors, and that will continue. Much work is going on, details of which will be provided in our next report, to improve support to armed forces and veterans communities, and that is expected before Christmas.

A serious point in the debate is how we build democracy, how we intervene to build capacity and how we face up to the responsibilities of the UK's involvement in Afghanistan. A lot of wise words have been said. We are not the only people in the world who are discussing and debating the issues, but we have a right and an opportunity to voice our concerns and it is right that the Parliament is used to voice the concerns of many people about what is happening in Afghanistan, why we were there in the first place and, indeed, activities since.

We must support our troops and our Government has put that position on the record, but that does not prevent us as parliamentarians from expressing our view on what should happen. The Scottish Government supports withdrawal by the end of 2011 but, importantly, we are also committed to doing what we can to support the efforts of those who are building long-term peace, stability and economic success.

*Meeting closed at 18:32.*

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