The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Tuesday 30 April 2013

Session 4

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Scottish Parliament

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

Time for Reflection

The Presiding Officer (Tricia Marwick): Good afternoon. The first item of business this afternoon is time for reflection. Our time for reflection leader today is the Rev Jim Ritchie, the senior pastor of Trinity church of the Nazarene in Perth.

The Rev Jim Ritchie (Trinity Church of the Nazarene, Perth): Presiding Officer, members of the Scottish Parliament, ladies and gentlemen, I have the great privilege of being the senior pastor of Trinity church of the Nazarene, which is a vibrant, growing evangelical church in the city of Perth. As a church, it is our joy to love and serve the community around us. We work with people of all ages and backgrounds, but we have a particular heart for young people, the broken and those who are most vulnerable and in need, feeding the hungry, clothing the poor and helping those in the bondage of addiction to find freedom and peace in Christ.

Often, as we minister in our community, I am asked two questions: "What is a Nazarene?" and "Why are you helping me?" To the first question, I begin by explaining that, as I was born and brought up in Airdrie, I am an Airdrieonian, then when I moved to study in Glasgow I was surrounded by people who are known the world over as Glaswegians. Similarly, as Jesus and his family were from the town of Nazareth, he was known as a Nazarene. As his followers today, we seek to live just like Jesus, not only choosing to take his name but choosing to adopt his character. This is no small or simple task, given the level of holiness, unconditional love, acceptance and compassion with which he lived.

When the penny drops on what it means to be a Nazarene, the next question really answers itself—we do these things in Jesus's name, with his heart, loving and serving as he would if he was here with you today. Indeed, we believe that, as we serve those around us, he actually is with us and them by his holy spirit's power.

One of our church's favourite hymns has the opening line:

"I stand amazed in the presence of Jesus the Nazarene".

The word "amazing" is often overused in contemporary language. Avid followers of Twitter among us will recognise the tag line #amazeballs, and on a recent visit to Edinburgh's newest doughnut franchise, my kids remarked, "These doughnuts are simply amazing." What makes Jesus amazing is way beyond anything as trivial as Twitter or Krispy Kreme and is reflected in the next line of the hymn:

"And wonder how he could love me, a sinner condemned unclean."

That is what makes Jesus so amazing, so worth following and such good news for Scotland.

I pray that the love and peace of Jesus the Nazarene is with you all today, and all those you seek to serve.

Topical Question Time

14:03

The Presiding Officer (Tricia Marwick): The next item of business is a debate on motion S4M-06388, in the name of Fiona Hyslop, on the implications for Scotland of the royal charter on the self-regulation of the press. [*Interruption*.] I am sorry. It is topical questions, isn't it? [*Laughter*.] Okay. I say to those who are waiting with bated breath to ask their topical questions that we will move on to them.

Pentland Firth Ferry Service (Contingency Plans)

1. Liam McArthur (Orkney Islands) (LD): Thank you, Presiding Officer. It is okay. I will be participating in the next debate as well.

To ask the Scottish Government, in light of the engine failure of the MV Hamnavoe, what contingency plans are in place to maintain the lifeline ferry service on the Pentland Firth. (S4T-00328)

The Minister for Transport and Veterans (Keith Brown): The Scottish Government recently put the contract in place to provide the lifeline ferry service between Scrabster and Stromness and we remain firmly committed to the route. Serco NorthLink is engaging with the European charter market to source another vessel that can be brought to this lifeline route while MV Hamnavoe is being repaired.

I am monitoring the situation and I am satisfied that every effort is being made to source an alternative vessel. Indeed, I have requested that Caledonian Maritime Assets Ltd assists in that. While that process continues, Serco NorthLink has put in place immediate contingency plans to ensure that all booked traffic and passengers are moved to either the Serco NorthLink service between Aberdeen and Kirkwall or the service that is provided by Pentland Ferries.

Serco NorthLink plan to introduce a freighter to the route in the next few days, to ensure that freight can continue to travel on the Scrabster to Stromness route. The freighter will also be able to carry cars, but it will have a limited foot passenger-carrying capacity.

As the contract that the Scottish ministers have with Serco NorthLink imposes penalties on the operator whenever it does not deliver ferry services to schedule, it is fully incentivised to find an alternative means of meeting its contractual requirements. For each return sailing missed, the cost to Serco NorthLink will be £7,732 in penalties. In addition, the operator will suffer a loss of revenue and be liable for the direct and indirect financial consequences of the repair, which in this case are likely to be substantial.

I am slightly concerned that, in some media interviews this morning, Liam McArthur may have given the impression that the temporary loss of the Hamnavoe is preventing people and goods from reaching Orkney. As I think he knows, that is not the case. With the contingency arrangements now in place, Orkney is very much open for business, although we are seized of the need to restore the lifeline service between Scrabster and Stromness as soon as possible.

Liam McArthur: It is only fair to say that I was contacted this morning by a number of local business that have confirmed that they have had difficulties and have had to shift their transport patterns or have lost tourism bookings as a result of the problem.

It is now five days since the Hamnavoe suffered a major engine failure; five days during which my constituents and many local businesses have been left without their lifeline service between Stromness and Scrabster and there has been little evidence of an effective contingency plan. With confirmation that the Hamnavoe might be out of service for four weeks, anger in Orkney at the lack of progress is understandably boiling over.

Can the minister confirm that, under schedule 5 of the contract that was signed with Serco, commitments were made for ferry replacement and redeployment? Can he advise me what those provisions are, as they have been redacted from the version on the Transport Scotland website? Will the minister ensure that the existing NorthLink fleet, including the second freighter that he referred to, is redeployed until a suitable replacement vessel has been found, and that that happens immediately, so that my constituents are provided with the lifeline service that is specified in the Government's own contract?

Keith Brown: It is worth remembering that this was a catastrophic failure of a crankshaft or at least a vibration dampener on the starboard side. What happened was unforeseen, although it will be examined closely because it is important that we and Serco know whether it was the manufacturer's fault.

As Liam McArthur knows, the Hamnavoe has served the people of Orkney and Caithness for many years. The fact that it has been catastrophically damaged by a mechanical malfunction has provided some consternation for people in those places, as he rightly says.

The explicit provisions of the contract are that Serco NorthLink has to deal with vessel failure by responding to it in an efficient and effective way. It is also obliged to make best use of its existing

maritime expertise and industry contacts, not least to access a replacement vessel. As I said, we are helping with that by providing the expertise of CMAL.

There is no complacency here. People are working very hard 24 hours a day, round the clock, to repair the damage as soon as possible and they are working hard to procure an additional vessel. It is also true that contingencies have been put in place to make sure that people can travel, on Pentland Ferries and, if necessary, on the other route that is provided by Serco NorthLink.

Liam McArthur: I note the minister's reference to "catastrophic" engine failure, which is terminology that I was reprimanded for using earlier in the week. He is absolutely right that no one could have predicted the engine failure, but clearly the eventuality was envisaged by the minister's officials when the contract was negotiated. That being the case, I, like my constituents, cannot understand why no effective contingency arrangements appear to have been put in place.

The minister has set out the financial penalties to Serco for on-going lack of reliability or delivery of the service, which provide an incentive that I welcome. Can he advise me and constituents to whom and to whose businesses there has been a loss whether that loss is remediable through Serco or by writing directly to the Government?

Keith Brown: I have outlined the penalties that apply to Serco. As was the case under previous Administrations, there is no provision for the compensation that I think Liam McArthur is hinting at. He has raised with me the question whether additional costs have been incurred by his constituents, which I have undertaken to look into with Serco NorthLink. I am happy to do that and get back to Liam McArthur in due course. The same arrangements are in place for a loss of service as always have been. A loss of service happened previously with MV Clansman, as the member may recall. The same provisions applied then as do now.

Rob Gibson (Caithness, Sutherland and Ross) (SNP): We all agree that normal service on the key Serco NorthLink service between Scrabster and Stromness must be quickly normalised. Will the minister confirm that Serco NorthLink will be able to modify the roll-on, roll-off facilities at those ports in order that cargo boats and then possibly a passenger and car ferry can be accommodated so that the service can be resumed as quickly as possible before the MV Hamnavoe returns?

Keith Brown: I am happy to confirm to the member that discussions have taken place between Serco NorthLink and the harbour authorities. Modification will be required, not least in relation to the original freighter that is being brought in to provide a freight service.

I understand that that is not straightforward process, but the authorities in Scrabster and Serco NorthLink are working on that. The procurement of an additional vessel will, obviously, take into account the particular mooring and other requirements of that vessel to ensure that it is suitable, if at all possible without any need to make further modifications.

Rhoda Grant (Highlands and Islands) (Lab): I am not sure whether the minister was in post in 2010 when a similar incident happened with MV Clansman but, at that time, I asked that a stand-by vessel be bought to fill in at times such as this when there was catastrophic failure with a vessel. Such a vessel could be used on a secondary route in between times so that a ferry would be available but it would be paying for itself. Will he give that idea serious consideration?

Keith Brown: What applies now that did not apply in 2010 is that we have two contracts with two different providers. Such a suggestion would have to be dealt with in the context of one contract. If we required Serco NorthLink to have an additional vessel, the overheads would be substantial, and those costs would have to be found from either additional subsidy—and the subsidy levels are already at record levels for ferry services in Scotland—or additional cost to the passenger. Neither of those options is acceptable.

It is necessary for the operator to provide a replacement vessel as quickly as possible, rather than have a six-year overhead of an additional vessel that could not be used on any other routes on the Serco NorthLink contract because it has guaranteed the vessels that are being used for Shetland separately. That is not a realistic option to undertake for this particular contract.

Mary Scanlon (Highlands and Islands) (Con): The fact that businesses and travellers are having difficulty booking the Pentland Ferries service from Gills Bay to St Margaret's Hope in Orkney confirms that this is a lifeline service and, indeed, that an effective contingency is even more valued in these times of need. Given that the service receives no public subsidy at all, will the minister look again at the state's zero subsidy for lifeline services?

Keith Brown: The level of subsidy for that service was looked at as part of the tendering process. We had a substantial consultation in which we talked to all the stakeholders involved and we were agreed on the level of subsidies that we would provide to that service.

My officials have spoken to Serco NorthLink as recently as the past hour to ensure that the

booking of passengers on to the Pentland Ferries service is carried out as easily as possible and that the necessary capacity will be provided. Therefore, there is substantial collaboration between Pentland Ferries and Serco NorthLink. If the member is aware of additional booking difficulties, I am more than happy to look into that to ensure that the problem is remedied as soon as possible.

Tavish Scott (Shetland Islands) (LD): Will the minister confirm whether the vessel that is being procured will provide the service across the Pentland Firth while the crankshaft is being replaced and for the entire period for which MV Hamnavoe is out of service? Will he therefore confirm that neither MV Hrossey or MV Hjaltland will be taken off the Lerwick and Kirkwall to Aberdeen routes during that period?

Keith Brown: In response to Tavish Scott's latter question, I have confirmed that we do not intend to take vessels from the Shetland routes on to the service, which is something that we made clear when we let the contract. If an additional vessel can be procured to replace the Hamnavoe in the meantime, the idea would be to have that in place until the Hamnavoe comes back into service.

John Scott (Ayr) (Con): The minister will be aware of the harsh winter and late spring and the effect on livestock, which are being required to be fed unseasonably late. Will the contingency plans make provision for essential livestock feeds and fertilisers being delivered to Orkney, in support of the hard-pressed farming and crofting community?

Keith Brown: I understand that they do. In addition, the new freighter, which is in hot layup, as it is called, and which will come in if the modifications that I mentioned can be made, will start to alleviate such pressure as still exists. As I understand it, feed and other necessary freight are getting through, but we want the new freighter to come on and provide additional capacity. That might happen as soon as tomorrow.

Salvesen v Riddell

2. Claire Baker (Mid Scotland and Fife) (Lab): To ask the Scottish Government what its response is to the Supreme Court ruling on the Salvesen v Riddell case. (S4T-00329)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): On 24 April, the Supreme Court issued a decision in the case of Salvesen v Riddell, holding that section 72(10) of the Agricultural Holdings (Scotland) Act 2003 is outside legislative competence, because it is incompatible with agricultural landlords' rights under article 1 of protocol 1 of the European convention on human rights.

We were disappointed by the Supreme Court's ruling. The court has given us a year to work out how to respond. Agricultural tenancy legislation is highly technical, as members are well aware, and the Government will need to consult carefully with stakeholders and the Parliament on what steps to take.

Claire Baker: I share the cabinet secretary's disappointment at the decision. Labour will work with the Scottish Government to deliver a workable solution that supports tenant farming in Scotland.

Affected tenant farmers have been in limbo, which has caused distress and uncertainty, and the cabinet secretary will be aware of their disappointment at the recent decision. I understand that the Scottish Government asked for a limit on retrospection, which was not granted. Will the cabinet secretary say how many tenant farmers are affected by the judgment?

Although the Supreme Court's ruling on incompatibility was limited to section 72 of the 2003 act, the court said that that section's relationship with section 73 needs to be looked at again. Will the cabinet secretary address concerns in that regard?

Richard Lochhead: The number of tenancies that are affected is difficult to quantify, given the timescale involved. We estimate that between 120 and 350 notices to quit agricultural tenancies were served by landlords on tenant farmers in limited partnerships during the Agricultural Holdings (Scotland) Bill's passage through the Parliament. That gives us a rough estimate in the context of the overall number of tenancies in Scotland; in 2012, 512 out of 6,775 tenancies in Scotland were limited partnerships under the Agricultural Holdings (Scotland) Act 1991. It is clear that tenancy agreements are affected.

As the member said, the court declined to limit the retrospective effect of the judgment, although it suspended the effect of the decision for 12 months—or more, if required—to give the Parliament the time to take necessary steps to ensure that its legislation complies with ECHR. The court recognised that this Parliament is the right place in which to debate the way forward and acknowledged that a full consultation with all interested parties in the 12 months ahead will be vital. We will ensure that that happens, with all parties in the Parliament.

Claire Baker: As the cabinet secretary said, the decision is suspended for 12 months. At this point, can he give an indication of the Government's anticipated timescale for bringing forward proposals?

I appreciate the information that the cabinet secretary has provided today. Given the

complexity of the issue, will he say how he will keep members informed of the Government's work? If possible, will he comment on the issue to do with section 73?

Richard Lochhead: I will ensure that a briefing on the complex issues behind the case, including the relationship with section 73, is issued to the relevant parliamentary committee and other interested members. I am sure that the member has read the judgment and knows that it raises a number of complex issues. We are considering our options and want to take a little time to do so; we will make every effort to keep MSPs in the loop, because the Parliament must approach the issue on a cross-party basis, for the sake of tenant farming in Scotland.

Roderick Campbell (North East Fife) (SNP): In view of the importance of the proportionality test in ECHR jurisprudence, what lessons does the Scottish Government think can be learned from the decision in Salvesen v Riddell?

Richard Lochhead: In relation to ECHR and in light of the judgment, it is clear that ministers must carefully define and articulate the public interest, balancing that with the safeguarding of individual rights. As the judgment illustrates, the court took the view that Parliament overstepped the mark in trying to prevent avoidance measures. The court thought that the steps that were taken were disproportionate. We have to strike a careful balance, but I am sure that the Parliament wants to put the public interest first. How we do that will determine the extent of our success in taking the issue forward.

John Scott (Ayr) (Con): In light of the judgment, whom will the cabinet secretary be consulting before bringing forward his proposals?

Richard Lochhead: Clearly, that will depend very much on the extent to which we have to legislate. If, as seems to be the case, legislation is required, we will have to carry out a normal consultation, so all the stakeholders and the parliamentary process will be involved. At the moment, we do not quite know what options to take, as the member will imagine. Given the complexity involved, we want to take a few weeks to understand the options. If legislation is required, it will have to go through the full consultation process.

Press Regulation

The Presiding Officer (Tricia Marwick): We come again to the debate on motion S4M-06388, in the name of Fiona Hyslop, on the implications for Scotland of the royal charter on the self-regulation of the press.

We have time in hand and the Presiding Officers will be extremely generous in terms of both time and interventions. I call Fiona Hyslop to speak to and move the motion. Cabinet secretary, you have about 14 minutes.

14:21

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): I am pleased to open this debate on the implications for Scotland of the royal charter on the self-regulation of the press. I will move the motion in my name, which, importantly, is supported by the leaders of the other four parties in this Parliament. The motion has been signed by Johann Lamont, Ruth Davidson, Willie Rennie and Patrick Harvie, as well as by the First Minister.

Let us remember the serious concerns about the operation of some of the press and the hurt, the anger, the anguish and the violation felt by the victims of press abuse. Nobody—not even the press—thinks that the status quo is acceptable. The issue is how press regulation, and recognition of press regulation, is carried out. In Scotland, we need to recognise that the majority of the press, particularly the regional press, was not involved in malpractice, so any system should be proportionate, but even the regional press in Scotland wants to see a new system.

As press regulation is devolved, we need to consider in this Parliament our way forward and, as the Scottish Government has made clear from the outset, we want to do so consensually. I thank the leaders of parties from across the chamber and the cross-party membership of the Education and Culture Committee for their constructive input and co-operation in that process.

Events are moving on and on Thursday the Newspaper Society and other press organisations produced their own draft royal charter. Indications from my discussions with the Advocate General are that the United Kingdom Government remains unwavering in wanting to present its own version of the charter to the Privy Council, which will now meet on 15 May with draft papers circulated tomorrow, so this debate and motion remain pertinent and timely.

If the press impasse remains, and if the recognition panel has no-one to recognise, it will

report to both Parliaments and stronger statutory measures may then be the only option.

In the meantime we should deal with what is before us: namely, do we agree to a royal charter as the mechanism to give legal effect to recognising a new regulator and, if we do, do we agree to that being made compliant to Scottish devolved responsibilities and Scots law and circumstances?

The bulk of our proposed amendments would have to apply to any royal charter to give it proper effect in Scotland, and the counter-proposals of the press that were announced on Thursday, as they stand, would leave Scotland without a press regulation system that takes Scots law into account.

I think that there is consensus on the following points, based on the Leveson proposals, which themselves were broadly welcomed: that there needs to be a voluntary regulatory body, established by the press itself; that there should be a recognition process so that the criteria needed to deliver Leveson's recommendations can be implemented; that the recognition process, including the recognition panel, and the appointments body setting up that panel, should all be independent of Government; and, importantly, that freedom of the press is a precious cornerstone of democracy and although politicians may not like what is written, the press must have the freedom to question, challenge and comment.

There has been less consensus around statutory underpinning although, in practice, it is recognised that there is some need for statute. Indeed, the UK Government has passed clauses in two bills at Westminster on entrenchment and incentives. That statutory underpinning of those issues is something that the Parliament will need to consider in terms of Scots law, although it is not essential at this point.

The expert group that was chaired by Lord McCluskey gave thought to statute, and I thank the group for its contribution. As the First Minister said when the report was published:

"Lord McCluskey's Group has delivered an extremely thorough piece of work looking at how the proposals made by Lord Justice Leveson could be applied in the context of Scots law, including draft legislation. The report is admirably clear."

We are indebted to the group for its hard, unpaid work over three months to master the 1,987-page Leveson report and to work out how to apply it in Scotland. It is an important piece of work.

The group made a strong recommendation about compulsory universal jurisdiction, which—as we have seen—was not met with agreement. It also cut across the voluntary basis that many of us saw as the starting point for membership. The group presented a system that could work under Scots law but made assumptions about the ability to achieve either political consensus or press agreement around that. It may be that, if a voluntary approach fails, we will need to look at alternatives—I shall say more about that later—but that is not where we are now. We are presented with the question of the draft royal charter that is before us.

Patrick Harvie (Glasgow) (Green): Does the cabinet secretary agree that, if it came to any consideration of a mandatory approach, there would need to be a clear distinction between the press and the comments made by individuals? The McCluskey group did not recognise the idea that bloggers and individual citizens would be treated in the same way.

Fiona Hyslop: That area was raised in the McCluskey report, which went into further territory than even the Leveson report did. Should we end up in that territory, that will need to be discussed. However, we are not in that territory yet, and it is problematic how we would deal with that situation. We are not in that territory; we are being presented with a draft royal charter and that is where we must direct our remarks and thinking at this stage.

The expert group's report was published on Friday 15 March. At that time, there seemed little prospect of cross-party agreement at Westminster. However, on Monday 18 March, a draft royal charter was agreed and we were then presented with the question of how we respond. That is why I welcomed the Education and Culture Committee's examination of the charter. I appreciate the fact that the committee had very limited time, but it conducted a good examination of the areas that we asked it to look at.

Neil Findlay (Lothian) (Lab): When the cabinet secretary came before the committee, I asked her whether Lord McCluskey's group went beyond its remit and she said yes. Since then, Lord McCluskey has written to the committee, disputing what he calls "that assertion". Can she elaborate on how she thinks that Lord McCluskey went beyond his remit?

Fiona Hyslop: The remit—which was set out clearly—asked for an examination of Leveson's recommendations. Interestingly, it also asked that, should developments take place elsewhere, the committee should consider them. Unfortunately, the committee did not have the time to do that and chose to report on 15 March instead of examining the royal charter in any detail. That is set out in the report. I think that a compulsory system is more extensive than the remit that was provided and, as I said, cut across the voluntary aspect of membership. I think that there is concern about

how that idea relates to the original remit, but I welcome the useful work that was done.

The charter route was not recommended by Leveson, as the expert panel pointed out, although it has the same legal effect. Although it was not the first choice of the victims group hacked off, that group has agreed the compromise text of 18 March. We could have ignored the charter route and set up a completely different system, but the consensus among the committee and the party leaders is that it is possible to make the charter compliant with Scots law and that we should take the opportunity to apply it to Scotland. That is what is recommended, on a cross-party basis, to Parliament today.

Given that press regulation is devolved in Scotland, the 18 March charter was drawn up in terms of England and Wales, so it would require some amendments—mainly technical—to fit Scots law and devolved responsibilities. We are in discussion with the UK Government on amending the charter in that way. The UK Government appreciates the need to make the charter fit for Scotland and to recognise the role of the Scottish Parliament, so we will liaise with it with a view to seeing whether we can arrive at a jointly agreed text.

The motion explicitly ensures that there will be further consultation with the Parliament, should there be any material move away from the current text. More broadly, press regulation is within the Parliament's devolved competence, so although we believe that participation in a royal charter is the appropriate way forward, it is open to the Parliament to return to the subject at a later date.

There was one policy issue that, with the agreement of the other party leaders, we raised with the UK Government as being worthy of further consideration, but which it has indicated it does not agree should appear in the charter; I refer to coverage of the recently deceased. The Leveson inquiry heard moving evidence on the issue from James and Margaret Watson, as did the committee only last week.

Paragraph 8 of schedule 3 to the charter sets out minimum requirements for the standards code of a new regulator. We suggested that it might be amended to include an additional criterion of appropriate taste and decency in reporting and commenting on the recently deceased, where the only public interest in them is in the manner or circumstances of their death. That last phrase is important. There is no intention to prevent comment on, say, Robert Maxwell or Baroness Thatcher. Our proposal is about people who are of public interest because of how they died, not those who are of interest because of their actions during life.

Paul Martin (Glasgow Provan) (Lab): The minister is aware of the concerns that Margaret Watson, who is one of my constituents, has raised. Although Margaret Watson would welcome some of the comments that the minister has made, she has proposed to the Parliament that there should be a legal backdrop, through which action could be taken on behalf of the deceased in circumstances in which they have been defamed.

Fiona Hyslop: That goes into areas of defamation law. I, too, had a very helpful meeting with the Watsons last week. The issue here is what is in the code. I want to be able to pursue the issue in the code, if at all possible. I think that the legal issues are better dealt with in consultations, a number of which—as the member knows—the Government has carried out. Another avenue is provided by Sheriff Principal Taylor's review of litigation.

Although the Press Complaints Commission's current code of editorial practice contains provision about not being unduly intrusive with relations of the recently deceased, it does not contain any direct protection for the recently deceased themselves. We believe that a new standards code should contain such protection. Inserting a reference to that in the royal charter would have been a means to that end. We will pursue the issue by other means. I am encouraged by the fact that the Press Complaints Commission's chair, Lord Hunt, recently stressed its importance in the House of Lords, and I have written to him about the matter in relation to the code as it develops.

The royal charter is primarily about establishing a recognition mechanism for a new regulator. The other half of the Leveson equation is about establishing incentives for membership of that body. The expert group considered that incentives were unlikely to work, hence its idea of universal jurisdiction. I am more optimistic. The expert group's secretariat drew up a helpful paper that looked at a range of options for incentives, which we will continue to discuss with the press.

We are looking at whether we can continue to support the press by considering whether public information notices might be placed only with members of the press regulatory body. The royal charter provides for an inexpensive arbitral system that could and should be an incentive. The Arbitration (Scotland) Act 2010 gives us a modern legislative background from which to work. In keeping with that act, arbitration would be voluntary and would take place only between a person who had been directly affected by the press and the press—there would be no third-party arbitration, although third parties have some new, limited scope to have complaints considered by the regulatory body—but without the possibility

of damages arising, which can happen in arbitration.

The draft royal charter obliges the recognition body to alert the Parliament if it cannot recognise a regulator, or if that regulator does not cover all publications.

I found all of the Education and Culture Committee's advice helpful, but I quote a particularly key passage:

"The Committee was interested to note the evidence concerning Ireland, suggesting that near universal participation in the voluntary code was, in part at least, a result of the potential threat of legislation should this not happen. The Committee therefore expects participation by the press, failing which, legislation becomes not only inevitable but should be put in place without further inquiry given the thorough and comprehensive work of Leveson and the Expert Group. The public will expect nothing less of the Parliament."

The committee's advice encourages us to take forward voluntary press regulation by royal charter, although it suggests what should be done if a voluntary approach should fail.

I began by setting out how we have sought consensus. That has been useful and I am grateful for the co-operation that we have had from other parties, the party leaders and the cross-party Education and Culture Committee. The Scottish Government has always said that it would be for the press to self-organise a voluntary press regulation body, but the manner in which the remainder of the Leveson recommendations are given effect should reflect Scots law.

I have set out for members where we have got to in our deliberations and the thinking that has informed that. No doubt individuals and parties in the Parliament will want to stress particular points, but by presenting this motion, signed by all the parties, we have shown agreement on how we can move on at this stage. I will continue my discussions with the UK Government and I undertake to keep the Parliament informed. I urge the Parliament to support the motion and to continue the cross-party agreement on this issue.

I move,

That the Parliament notes the publication on 29 November 2012 of Lord Justice Leveson's report, *An inquiry into the culture, practices and ethics of the press*; further notes the subsequent production of the draft *Royal Charter on self-regulation of the press* on 18 March 2013; agrees to Scottish participation in the Royal Charter, subject to its amendment to reflect properly Scotland's devolved responsibilities, Scots law and Scottish circumstances; further agrees to consider possible incentives for membership of a new regulatory body for the press, and asks the Scottish Government to proceed on this basis, recognising that, in the event of a material change to the text of the Royal Charter, the Parliament will be consulted again.

14:36

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): After nine months of investigation and evidence taking, Lord Leveson produced a report that made compelling reading. That the system of self-regulation of the press by the press could not continue in its current form became apparent at an early stage as, day in and day out, witnesses appeared at Lord Leveson's inquiry to give evidence about their treatment by the press and their concerns about its impact on their lives and those of their families.

Lord Leveson's recommendations seem to most commentators to be sensible. My party and the Liberal Democrats accepted the recommendations, but of course they were not universally popular across the coalition Government. We have therefore had some months of negotiation at Westminster that has resulted in an all-party agreement, namely an independent regulator underpinned by royal charter. The royal charter will, in effect, provide for a new system of independent self-regulation that seeks to incentivise rather than compel. It will be totally independent and will operate on the guiding principle of the freedom of the press.

The regulator will have the power to order newspapers to publish apologies when they get information wrong. Crucially, those apologies will be given more prominence than has hitherto been the case and the regulator will be able to consider third-party complaints. Additionally, the regulator will have the power to impose exemplary damages on newspapers that fail to join the body as a way of encouraging compliance, and it will also set up a whistleblowers hotline, while protecting the confidentiality of journalistic sources. Importantly, in my view, the regulator will not be able to veto publications. I think that we can all agree with that.

Publications that sign up to the scheme will have protection from awards of exemplary damages and the opportunity to use an arbitration service. It has become clear that amendments to protect smaller blogs are now to be tabled as the royal charter is considered at Westminster. Smaller blogs will be outside the scheme, as they will not be classed as "relevant publishers". Again, I think that that is wise.

What is not yet part of the royal charter discussion are the amendments to deal with the particular provisions of Scots law, which of course is what the main focus of our debate today must be. The meetings held with Scottish party leaders have been helpful to the debate in Scotland, with all leaders agreeing in principle to support a UK-wide regulatory system. Indeed, in her letter of 19 April the cabinet secretary indicated that the

"draft Royal Charter is capable of extension to Scotland with a relatively small number of technical amendments."

Many of the amendments suggested by the Scottish Government seek adjustments to reflect the roles of the Auditor General for Scotland and this Parliament. They also recognise the Public Appointments Commissioner for Scotland and the role that he or she will play.

The issue of costs or expenses requires amendment, too. In cases of publications that do not sign up with the regulator and therefore do not have access to the arbitration process, they will be liable for their own costs, even after successfully defending a complaint or in cases in which the complainant is deemed to be unreasonable or vexatious.

Sheriff Principal Taylor is conducting a review into the funding of civil litigation, but I am advised that, as matters stand, the general rule in Scotland is that expenses follow success. That would allow a publication to recover at least some expenses in a case brought against it if it is successful.

The charter suggests that aggravated damages should be available in cases of mental distress. Currently, aggravated damages are not available in Scotland. More significantly, neither are exemplary damages, insulation from which is the key tool to encourage participation. I hope that the cabinet secretary might say something about that in her winding-up speech.

I wish to say a few words about the local and regional press, where we know there are real concerns about the entire process. First, I recognise the important part that local newspapers play in our communities and in our democracy. They have nothing to fear from good standards and a resilient complaints system. The new system is designed to be a less expensive way to settle complaints, and it will allow complaints to be dismissed on "legitimate grounds", which is a wider definition than that used by Lord Leveson, who talked about frivolous and vexatious claims.

We are debating this subject today because of the actions of a few newspapers that indulged in deeply reprehensible behaviour. Many witnesses attested to that at Lord Leveson's inquiry. Many celebrities brought their cases before him, and they were right to do so, but I will single out one ordinary woman. Actually, she is an extraordinary woman. As we have heard, she is a constituent of my colleague Paul Martin, who has raised her case and her concerns in the chamber on many occasions.

I will not rehearse again the horror that Margaret Watson and her family have suffered, but I will say that Mrs Watson has campaigned on the issue for many years. Indeed, Mrs Watson used her experience to highlight many of the issues that were eventually considered by Leveson long before Governments began to take an interest.

We would all wish to ensure that the recently deceased are treated with respect, and that sensitivity and courtesy should be shown to the bereaved in circumstances where the only interest that the press might have in the deceased lies in the manner and circumstances of their death. I genuinely welcome the attempts to amend the code to give effect to that sentiment, while at the same time regretting the fact that we live in a society in which is necessary to do so.

Mrs Watson would wish us to go further. She correctly identifies the fact that similar provisions already exist in the editors' code of practice, yet there are still incidents such as the one that occurred, not once but more than once, in her family.

In my constituency, too, I experienced cases involving constituents in similar, if not so severe, situations at the time of the Stockline disaster in 2004.

Fiona Hyslop: The member makes an important point. When I met Mrs Watson, she stressed that although her name has been associated with the issue, there are many other cases. I know from my constituency case load of other circumstances. It is important to put on record our recognition of the need and demand, not just regarding one isolated case. Unfortunately, the problem has recurred in less well-known cases.

Patricia Ferguson: Indeed. The cabinet secretary is absolutely right about that—and that is why I mentioned the cases of which I am aware from my constituency.

Mrs Watson wants us, on her behalf and on behalf of the people whom we are talking about, to consider the issue of defamation and to explore whether there is a possibility of having provisions in law that would protect people in her position and in other situations.

The cabinet secretary referred in her speech to Lord Hunt. Lord Hunt, in correspondence with Mrs Watson, has made it clear that the UK Government has already attempted to enshrine such a provision in law, holding on to the principle that a deceased person cannot be defamed because reputation is a personal matter that ends with the death of the individual. I ask the cabinet secretary whether she might discuss with her cabinet colleagues the possibility of finding a way in which we can help people like the Watsons in the future.

We are holding a necessary debate today on the technicalities of the system, but we must remember that that system has been put in place as a result of the belief of some newspapers—not all, by any means—that they could act with impunity and that the normal considerations of

fairness and justice did not apply to them. Those newspapers saw people such as the Dowlers, the McCanns and the Watsons as a headline, and not as suffering families enduring the worst experiences that any family can ever know. Those newspapers pilloried innocent people such as Chris Jefferies and hacked the phones of some of the survivors of the 7/7 bombings just for a headline.

I believe that the royal charter will allow us to draw a line under those practices, which are indulged in by a minority of newspapers and cannot be allowed to continue. The charter is a carefully balanced piece of work that deserves our support and which will, when it is amended, provide the nationwide system that we all want.

Scottish Labour will continue to work with the Scottish Government to give effect to the royal charter in Scotland, and we will support the motion.

14:46

Liz Smith (Mid Scotland and Fife) (Con): I do not think that any of us would argue that this debate is anything other than hugely complex. Whether we look at the Leveson report or the evidence that was taken by the Education and Culture Committee in this Parliament, or listen to the Westminster and Scottish Governments or the press industry itself, it is clear that it has been hard to find a majority opinion on several of the key issues, especially those that relate to where we should go from here.

In some ways that is not surprising, since the central issue at stake is how we balance the principle of a free press—which is rightly seen as a fundamental requirement of a democratic country—with the rights of individuals and the protection of victims. That is never an easy balance, but it is exactly the challenge that we face, and we have an obligation to all interested parties to get it right.

It is helpful to start where there is some general agreement. First, the public at large want something to happen to improve the responsibility of journalists on some—but by no means all—aspects of press reporting and to increase the transparency of decision making. The public clearly feel that in some circumstances there are significant problems: that the press is not sufficiently accountable; that, when breaches of the ethics code are uncovered, the apologies are often half-hearted and not given sufficient prominence in the paper; and that it is too easy for clandestine deals to be done. Some—including Lord McCluskey himself—feel that the press even believes that it is above the law, which is not a view that others share.

Secondly, there is general agreement on the need for balance and a workable solution—as the cabinet secretary has outlined—that supports the integrity of the vast majority of journalists but punishes those who do not respect the privacy of individuals in a responsible manner or who flout the law.

There is an understanding that whatever we decide on must respect the subtle but nonetheless important distinction between a breach of law and a breach of ethics, which is a distinction that has been debated for thousands of years. A virtuous person is someone who is naturally disposed to behave in the right way, for the right reasons, and who can do that by voluntary action rather than by force. I think that we would all much prefer that, but the key question in this debate—whether the major players believe that an improved voluntary code of ethics is sufficient—remains. So far, the debate is firmly trapped between those who say yes and those who say no, but it is further complicated by the differences between two legal systems and by the mixed messages from politicians.

Finally, in setting out the main direction of the debate, the key issue of accountability arises. That is linked closely with the independence of the process, hence the desire in the press industry—and indeed in other quarters—for politicians to be removed from the process. That was a concern of the Scottish Conservatives with regard to the McCluskey report's recommendation that the appointment of the chair of the Scottish recognition panel should be left to ministers.

Likewise, when it comes to the royal charter, we can well understand why there is concern about the lack of consultation with the Westminster and Holyrood Parliaments, which has meant that the result is too hasty and is perceived to be too close to the interests of a small band of senior politicians rather than being open to the scrutiny of the parliamentary process. The last thing that we want is a royal charter, albeit adapted for Scotland, that is seen to be based on vested interests.

Those are the key issues that the Scottish Conservatives believe must be answered, but the million dollar question, of course, is what do we do?

As everyone knows, the press is already subject to many other laws—the Contempt of Court Act 1981, the Human Rights Act 1998, the Data Protection Act 1998, the Bribery Act 2010, and so on—and we all need to ask ourselves whether we need another law, some other form of regulation, or a beefed-up code of ethics. For example, we now know that the Surrey police knew that Milly Dowler's phone had been hacked but they did not do the right thing. If action has to be taken, we need to be wholly sure that it will do something

that is not already covered by the law. Several key witnesses who came before the Education and Culture Committee said that the existing laws had not been used effectively, and that that is part of the problem.

Obviously, that has implications for discussion of the Scottish dimension. Several witnesses pointed to the fact that many of the problems that brought about the Leveson inquiry in the first place were very much London based. That does not deal satisfactorily with the Watson case in Scotland, in which wrongs were clearly committed; Patricia Ferguson spoke very movingly about that. It is good to hear the cabinet secretary make her case that we need to recognise what happened with the Watson case in any measures that we undertake in Scotland. We can understand the difficulties when we are talking about a previous case for which evidence is incomplete but, nevertheless, something must be done.

We must be sure that we are not creating a huge and expensive bureaucratic burden. Not long ago the Education and Culture Committee heard at great length about the problems of the smaller regional press in Scotland, especially how some regional newspapers are facing huge financial constraints and, in some cases, finding it difficult to operate at all. As Patricia Ferguson said, those newspapers are an important part of journalism and local democracy and we need to ensure that we do not do anything to further jeopardise their future.

Leveson had some good things to say about the local and regional press, and for the Scottish Conservatives it is significant that the recent publication from the press speaks with one voice on behalf of the whole industry. At the weekend, I noticed that that caught the attention of John Whittingdale, who is chair of the House of Commons Culture, Media and Sport Committee, and who said that the UK Government would be well advised to accept the offer of a tough new watchdog as recommended by the industry. I see today that more MPs south of the border are saying exactly the same thing.

The timescale within which the Education and Culture Committee was forced to operate was regrettable, especially when it came to a lack of evidence from the regional and local press. We suggest that that is an important omission and, when we have further discussions, it should be taken further.

Fiona Hyslop: I agree with what the member says about the importance of the regional press in Scotland. Clearly the subscriptions to a self-regulated body would be decided on and made by the press and, in the circumstances, perhaps graduated subscription rates would be applied if the regional press needed them. However, that is not a matter for the Government; it is for the press to decide that.

Liz Smith: I entirely agree, but the press is speaking with one voice and we can build some kind of consensus around that.

At the end of the day, the key test of what follows from all this debate is transparency and whether the problems that surrounded the phone-hacking scandal and other criminal offences could ever be repeated. I am not sure that we are much closer to resolving the problem, but we are closer to defining the debate's parameters and that is welcome. However, the Scottish Conservatives are sure that we have not had nearly enough time to consider the issue and the worst thing that we could do is rush legislation through and make bad law as a result. We welcome what the cabinet secretary has said and what is in the motion about further consultations. We are happy to support the motion.

The Deputy Presiding Officer (Elaine Smith): Thank you. That brings us to the open debate. Members have speeches of around six minutes with time for interventions.

14:54

Graeme Dey (Angus South) (SNP): As I have noted before in the chamber, prior to being elected as an MSP, I spent some 30 years in the field of journalism and, despite the battering that the profession's reputation has taken over the events that led to Lord Justice Leveson's inquiry, I remain proud to say that I did so.

Throughout my time in journalism, I was privileged to work with many fine journalists on a national and local level—people of integrity, who were committed to doing the job to the best of their abilities and within the code of conduct. Despite the ravages that have been visited on the print sector by the cost-cutting agenda of proprietors in response to falling circulations and advertising revenues and the devastating impact that that has had on morale in some instances, many of those individuals remain in the profession, still seeking to maintain those standards and that commitment.

I will focus my contribution to this important debate on where affording protection to rank-and-file journalists fits into better regulation of the press, because if we want a more responsible press, we must bring forward a system of regulation that takes account of the experiences of not only the victims of phone hacking and media harassment but of those responsible for news output in this country and which seeks to better protect both, because their interests are undoubtedly linked.

We need to come up with a system of regulation that, by virtue of its strength, affords journalists protection from editors and proprietors who, in their desperation to stem the financial tide, are happy for corners to be cut or who create a working environment in which reporters feel that they have to cut corners in order to meet the demands that are being made of them.

Of course, ordinary journalists have been caught up in the appalling behaviour that has led us to this point and, where they were guilty of being willing participants in that, they should face the appropriate consequences. However, there are journalists operating in the print media who are coming under enormous pressure to behave in a manner that most decent people—including them—would find wrong.

Do not just take my word for it: from within well-known newspaper titles, via the National Union of Journalists, come claims of reporters being bullied into writing anti-Muslim stories, with one female journalist walking out of her job rather than continue to manufacture copy under duress. Another hack was told to

"make stories as right wing as you can"

and peddle the line that

"Britain is being flooded by asylum-seeking bummers."

The NUJ also has a member who felt that he had no option but to walk away from his job after his editor completely changed a balanced piece that he had written on a trade union leader during industrial action, access to whom he had secured only after giving an undertaking on the angle that would be taken.

Ahead of appearing before Leveson, the NUJ's general secretary, Michelle Stanistreet, sought evidence from her membership on the practices that were in place across the industry. In all, 40 submissions were received. According to the NUJ, the vast majority of the individuals concerned felt the need to ask for anonymity for fear of dismissal, career blight or future victimisation.

Lord Leveson, reflecting on what he heard at the inquiry, commented:

"I was struck by the evidence of journalists who felt that they might be put under pressure to do things that were unethical or against the code. I therefore suggest that the new independent self-regulatory body should establish a whistle-blowing hotline and encourage its members to ensure that journalists' contracts include a conscience clause protecting them if they refuse."

As Michelle Stanistreet put it:

"Journalists should always have the right to refuse assignments that contravene their ethical code; no journalists should be disciplined or suffer detriment to their careers for asserting their right to act ethically."

In contrast, the owner of Express Newspapers, Richard Desmond, told Leveson in response to questioning by Robert Jay QC on the subject of ethical journalism:

"ethical, I don't quite know what the word means, but perhaps you'll explain what the word means".

That is why section 8D of the recognition criteria within the proposed royal charter, which states that

"A self-regulatory body should establish a whistleblowing hotline for those who feel that they are being asked to do things which are contrary to the standards code",

is so important.

The vast majority of the misdemeanours that have been identified in relation to the phone-hacking scandal and other unacceptable practices were perpetrated south of the border, but we have no cause for complacency in Scotland. The newspaper industry north of the border, generally speaking, is not in a good place and journalists' morale in some parts is extremely low.

Although I have been away from the profession for two and a half years, I stay in contact with former colleagues across a number of newspapers and I have heard some concerning things. Among other things, long-standing terms and conditions of employment are being ripped up, with practical as well as significant financial implications for those concerned—all against a backdrop of jobs being cut and those who are fortunate enough to remain having more and more demanded of them. In having to meet those increasing demands—for the daily story count or early submission deadlines—the standards that some have prided themselves on maintaining over many years inevitably suffer. That will manifest itself in a variety of ways—some of them, admittedly, relatively trivial—but if the environment in which some journalists are operating is as stressful as it is, there is inevitably potential for problems to arise.

In coming up with a new system of regulation, we surely have to send a message to editors and proprietors who may be placing—albeit perhaps without fully grasping the consequences—pressure on their staff that we are on the side of ordinary journalists as well as of the victims of media misbehaviour and that treating reporters in a way that leads to sharp practice or serious errors being made will rebound on them.

I very much welcome the proposal for access to the printing of public information notices, with the associated financial benefits, to be restricted to regulated newspapers, as an incentive for participation in the proposed scheme. However, I wonder whether we should not go a little further and make it clear to proprietors that any newspapers that are found to be repeatedly misbehaving or who are the subject of regular

reporting under section 8D could lose their rights in that regard if the claims are substantiated. To have both carrot and stick will, it is hoped, offer enhanced protection to the public and to journalists.

In conclusion, I welcome the general consensus on the way forward that has emerged in this Parliament. We urge members to bear in mind that what is ultimately put in place must protect the interests of not just the public but those whose job is to gather and present the content of the papers that the public are buying in sadly, but understandably, decreasing numbers.

15:00

Graeme Pearson (South Scotland) (Lab): I am fortunate to speak after Graeme Dey, and it is right that I acknowledge that having dealt with the media—both editors and journalists—for over 30 years, on only a handful of occasions did I ever feel let down by those with whom I engaged. That said, we should have a system that creates a culture that enables the press to act in a responsible manner and which ensures transparency and accountability, so that the media and the free press are a force for good in British society. The press should act as a watchdog on public life and public administration; they should provide accurate information to the public and a forum for public discussion. However, there should also be an opportunity for arbitration on disputed stories and a means to put things right.

Unfortunately, elements of the free press in recent times have failed in their responsibility to uphold those duties to the highest standard. The old adage, "Power corrupts; absolute power corrupts absolutely," has borne fruit yet again. While it is unfair to tar the entire industry with the same brush, it would be accurate to say that a significant section of the media has not acted in a manner that we would deem acceptable. However, we should not pass by without acknowledging that some elements of the police, public servants, politicians and others have also failed to maintain integrity and honesty in their approach to the media.

No doubt members of the media with power, influence and no slight financial clout have led the way to the debacle and crisis that we now face. It is absolutely clear that the media cannot continue to behave in the manner in which it has done in past years. We must not lose sight of why the Leveson inquiry was established two years ago: to ensure that immoral media practices such as phone hacking are not repeated. Now that the dust is beginning to settle, it is worth taking a moment to consider the full magnitude of the situation that led us to this debate. The scandal of the press directly impacted on people across British society, from celebrities and the royal family to ordinary people who were often the very victims of tragedy and deserved better, such as the Dowler and McCann families. It was a scandal that resulted in the death of one of Britain's oldest and most read newspapers and which brought an industry meant to protect the public into disrepute.

I do not support tight regulation of the press that would limit its freedom, because I believe that a free press is a luxury that we are very fortunate to have and which, by and large, serves us well. However, a balance must be struck between regulation to ensure responsible practices, and freedom of speech and fair comment. It is important to recognise that Lord Justice Leveson's proposal in no way suggested that the Government should have power over what the media publishes, nor that there should be any political control over the press's ability to ensure accountability and transparency. It will, however, ensure that members of the public are protected from improper and unacceptable behaviour by elements of the media. That role was previously part of the Press Complaints Commission's function, although the commission failed to deliver on it. The lesson that we should learn from that failure is that a process is only as valuable and impactful as the people who administer it.

The continuing wrangling between the UK Government and the media emphasises the importance of getting this right. Although a significant number of newspapers and media outlets oppose the proposals that have been agreed by all the main political parties, the industry's proposed alternative is so far removed from Lord Leveson's recommendations that I do not believe that it would be sufficient to address the issues at hand, which are about the misconduct of the press.

By and large, I am content that the system that is to be implemented offers the best possible solution for all concerned, subject to appropriate arrangements being put in place to take account of Scots law. Whatever the nature of the final system that is implemented, it is important that we agree that it should be appropriate for all the United Kingdom. In this chamber and throughout Scotland, we have a propensity to debate the constitutional arrangements that bind us, but—this is in no way an attempt at political point scoring—I think that we can all agree that, whether or not Scotland votes for independence next year, we will continue to read the same newspapers, watch the same current affairs programmes on television and visit the same news websites. It is therefore vital that we have a cohesive, single system in place to regulate the press, whether the medium is produced in Scotland and read elsewhere or vice versa.

I am pleased that the Parliament has been able to achieve general agreement on a solution that deals with public concerns about the business of journalism while protecting a free press. In the end, we need to have confidence that those who have the power and influence to take the necessary action to deliver integrity in the system of governance have the courage to take that action. I welcome the cross-party agreement in the Scottish Parliament on the proposals, and I support Fiona Hyslop's motion.

The Deputy Presiding Officer: I remind members that there is time in hand in the debate, so we can have speeches of a generous six minutes, and there is time for interventions if members want to take them.

15:08

Stewart Maxwell (West Scotland) (SNP): Although I am not speaking in my capacity as convener of the Education and Culture Committee, it might be helpful to members if I explain a little more about the committee's role in the process. Despite the tight timescale before the draft royal charter is to be sent to the Privy Council, and after speaking to colleagues on the committee and checking the forward work programme with the clerks, it became clear that it would be possible for our committee to take evidence over two meetings immediately after the Easter recess. I am glad to say that the idea gained further support when, in answer to a topical question from Clare Adamson MSP, the cabinet secretary, Fiona Hyslop, indicated her support for a parliamentary committee taking evidence on the matter.

Therefore, on 16 and 23 April, the Education and Culture Committee took evidence from a range of witnesses, including Lord McCluskey, newspaper editors, the NUJ, Mrs Watson, who gave evidence to the Leveson inquiry about press intrusion, and the cabinet secretary. I thank all the witnesses who came before the committee and gave us evidence at such short notice.

Although the committee took the matter extremely seriously and would have wished to spend more time considering all the factors surrounding the royal charter and press regulation, we were unable to do so, as the UK Government decided that the royal charter was to be put to the Privy Council in early May. Therefore, we had a maximum of two weeks to consider the matter. That is not a criticism of the UK Government or anybody else; I merely want to inform members of the timeline that the committee faced.

Our first evidence session started with Lord McCluskey, who informed us of the work of the expert group and the reasons for the conclusions that it arrived at. There is no doubt that there is a well-founded argument for the view that Lord McCluskey's group arrived at. Margaret Watson stated in her evidence that she supported the action that the group proposed, but many others, including newspaper editors, were opposed to the proposal.

Lord McCluskey was right to point out to us that the royal charter as drafted did not cover Scotland. He also pointed out clearly what incentives and disincentives—the so-called carrots and sticks—would be available in Scotland if we supported the royal charter proposal.

We do not have exemplary damages in Scots law and there seems to be no support for introducing them. Indeed, some doubt was cast on their compatibility with the European convention on human rights in any case. Although there was some discussion about using costs instead of exemplary damages, the committee had no time to investigate the viability of such a proposal.

In the absence of carrots and sticks, the expert group has a strong case for arguing for its conclusions, so the committee was keen to know two things from the cabinet secretary: what carrots and sticks did the Government propose for Scotland; and how did it intend to make the royal charter fit Scots law and the devolved settlement?

Before taking evidence from the cabinet secretary on those questions, we heard from newspaper editors, who stated clearly their opposition to any system other than the one of their choosing. They opposed the royal charter and the McCluskey proposals but, in spite of their somewhat colourful descriptions of the end of a free press as we know it, provided no evidence to support the idea that if regulation was introduced through any of the suggested models, they would be unable to cover in future any story that they had covered in the past. They made a strong case, however, for the freedom of the press within the bounds of the law and for keeping politicians away from control of what the press can and cannot do in a free society. They were somewhat less convincing in arguing that the proposed royal charter on self-regulation of the press could somehow be equated with political control of the press.

I will turn briefly to one of the issues on which Margaret Watson gave evidence to the committee—namely, press respect for the recently deceased. That is a difficult issue to deal with. It is clear that the relatives of someone who has died feel strongly about press intrusion.

The committee was sympathetic to the points that Mrs Watson made, but the editors' arguments about the right of the press to publish material about someone who has died—they gave the example of publishing material about the activities

of a criminal who has been shot in the street by a rival—were strong.

It is fair to say that the committee was sympathetic to the idea of finding a compromise that allows for respect for the person who has recently died without blocking legitimate reporting by the press. I welcome the cabinet secretary's comments today on that matter.

The cabinet secretary was the final witness. The committee asked her about the two main issues: the draft royal charter not covering Scotland; and what incentives could be used in Scotland. On the first point, she was helpful and provided the committee with examples of draft amendments to the royal charter that, if accepted, would make the charter apply here. She also gave two examples of possible carrots and sticks: arbitration and public information notices going to publications that sign up to the recognised body.

The committee then had to come to a conclusion based on that short consideration of the options. After some discussion, we arrived at the view that we supported the proposal for a royal charter on self-regulation of the press with the addition of appropriate carrots and sticks to fit Scots law and the devolved circumstances.

Given the industry's desire for any new system to be as straightforward as possible, the committee accepted the view that there should, if possible, be a single UK system. In addition, the evidence from the cabinet secretary about how the draft royal charter could be made to cover Scotland via some relatively minor amendments and the explanation of what carrots and sticks might be used in Scotland led us to the conclusion that we should support the royal charter.

Assuming that the UK Government makes the necessary changes to the draft royal charter to make it applicable to Scotland and that the powers of the Scottish Parliament in this devolved area are protected to allow a future Parliament to move in a different direction if the newspaper industry fails to heed the warnings about this being a final opportunity to put its house in order, I am—and, I believe, all the committee is—happy to support the motion.

15:14

Neil Bibby (West Scotland) (Lab): Today's debate is important because, as we all know, it is vital that we have a system that balances the importance of a free press with the need to protect victims of press abuse.

There is a consensus that the system must change. I will not suggest that what is proposed is perfect for everyone, but it is clear that changes need to be made.

I am a member of the Education and Culture Committee and we heard evidence from a number of witnesses, all of whom accepted the need for change, those from the press included. As Patricia Ferguson said, the Labour Party supports a royal charter that underpins a UK-wide system of self-regulation. Crucially, the draft royal charter on self-regulation of the press is in keeping with the broad recommendations of the Leveson inquiry. As has been said, we agree that the royal charter should be amended so that it is in keeping with Scotland's devolved responsibilities and Scots law.

This afternoon, it is important that we recognise how we have reached this point, as my colleagues Patricia Ferguson and Graeme Pearson have done, and that we acknowledge the extensive work that was done by the Leveson inquiry. Over nine months, it heard from more than 600 witnesses. It encompassed the culture, practices and ethics of the press, and Lord Leveson's report was welcomed by both the Scottish Labour Party and the UK Labour Party. It would have been unacceptable for the royal charter to proceed if it was not in keeping with his broad recommendations.

The changes that the inquiry proposed are required to give greater protection to the victims of the press. It cannot be right that celebrities who can afford media lawyers can get justice, but not ordinary families such as the Dowlers. The revelation that the mobile phone of murdered teenager Milly Dowler had been hacked by journalists is what brought the conduct of the press fully into the public spotlight. I have no doubt that every member in the chamber and millions of our constituents were shocked and appalled by the sickening treatment of the Dowler family. The listening to and deleting of voicemail messages that raised the family's hopes and severely disrupted the police investigation serve as a stark reminder of the need to act and change.

As members have already mentioned, this is not just an issue for families in the rest of the UK, as the negative effects have been felt by Scottish families as well. Families such as the Watsons and others, as well as the Dowlers, need our protection.

Many people are speculating about whether certain press organisations will sign up to a new scheme. I hope that they will, and I hope that those who have ruled out joining will reconsider. However, I do not think that we should speculate too much at this stage about what will happen should the press refuse to join. A cross-party consensus has emerged on the proposals, and that is crucial.

The Education and Culture Committee has explicitly stated its support for a UK system by royal charter. Scotland and the rest of the UK's

culture and media make that necessary and inevitable. People in Scotland and the rest of the UK read the same papers and the editors from whom the committee heard evidence agreed that it was preferable to have a single system operating across the UK as a whole. It can be suggested, as some have done, that the recent phone-hacking crimes are a south-east problem but, as Graeme Pearson said, the same papers are sold in Scotland and the same papers are read in Glasgow and Aberdeen as in Manchester and Liverpool, so it is our problem, too.

Fiona Hyslop: The member makes important points, but it is important to distinguish between standards and criminal behaviour. Part 2 of the Leveson inquiry report addresses some of the issues in relation to criminal activity, and it is with sincere regret that I say that some of the criminal activity was not prosecuted as quickly and promptly as it should have been. It is important that, in our discussions, we concentrate on the issue of standards rather than necessarily on the problems with criminal activity, which quite rightly must be dealt with by the courts.

Neil Bibby: I think that it is important that we look at all the issues. I know that the Leveson inquiry made some important recommendations in that regard and they should be acted upon.

As I was saying, and as Graeme Pearson said, papers do not stop at the border. Anyone who has picked up a discarded paper on a west coast or east coast main line train will know that. Lord Leveson concluded that, although the most serious problems arose from the practices of some in the London-based press, the Scotland-based press should not be treated any differently from the wider UK press.

It is clear that we need to right what has gone wrong, but it is important that, in doing so, we do not go too far the other way. A separate Scottish regulator would have run the risk of placing too great a regulatory burden on Scottish newspapers at an already difficult time for the industry. Newspapers play a key role in our democracy, as in any democracy, and there is a need to support the industry, which we know is struggling financially.

As I said at the start, the balance between a free press and protecting the victims of abuse is key. In a letter to the cabinet secretary, the committee expressed its concern, which Stewart Maxwell has mentioned, about the lack of time that it had to scrutinise fully the implications for Scotland. I regret that lack of time, although the committee has done what it could in the limited time available. It must be said that the time available could have been even less, had the First Minister succeeded in getting Lord McCluskey to delay the publication of his report.

Now that there is agreement, it is important that we get on with the implementation of Lord Leveson's recommendations as quickly as possible, which is a point that the Education and Culture Committee made in its letter to the culture secretary, which stated that work to address press regulation incentives should begin immediately.

As I said at the start, this debate is important. It is important that we get this right. Lord Justice Leveson said that we need

"a genuinely independent regulator, with effective powers to protect and provide redress for the victims of abuse."

That is what the proposed system will provide. I hope that press organisations will sign up to the UK system of regulation underpinned by royal charter.

15:21

Clare Adamson (Central Scotland) (SNP): As the member who asked, during topical question time on 19 March, whether the Scottish Government would welcome a parliamentary committee considering the proposed royal charter on regulation of the press and looking at what checks and balances could be achieved using Scots law, I am very grateful to be called to speak today.

Despite the very challenging timescales, which were not of our or the Scottish Government's making, the Education and Culture Committee has held two public evidence sessions; I will cover some of that evidence. The first witness panel included members of the expert panel that was convened by Lord McCluskey. The whole Parliament would welcome the expert panel's contribution, as it would the McCluskey report, which captured the Scottish context of Leveson and has given us much food for thought on how Leveson might have been applied in Scotland, given that the underpinning of exemplary damages is not available here.

In his opening remarks to the committee, Lord McCluskey stated:

"We accepted the need for statutory underpinning and the essential principle that there should be a regulatory body fashioned by the industry and independent of the press and of politicians and Government in general, and that there should be a second body—a recognition body, as it was called—to ensure that the regulatory body was up to speed and Leveson compliant ... The first version of the royal charter was produced on 12 February, by which time we were well into our thinking. We had on our committee a number of people of different political perspectives and none who had views about the royal charter, and we felt that we could not properly pronounce on it without extending our period of examination considerably and, indeed, obtaining evidence on it, because a royal charter is a very unfamiliar animal."—[*Official Report*, *Education and Culture Committee*, 16 April 2013; c 2182-3.]

In that context we find ourselves on the almost daily shifting sands of our position with the proposed Westminster royal charter. I am very pleased that party consensus on the royal charter has been achieved at Westminster and today in this Parliament.

Although there is much in the McCluskey report that makes the Scottish case, we must also recognise that the evidence from editors and representatives of the press stated their preference for a UK-wide solution. When the convener asked Andrew Harries what difficulty there would be in operating across two regulatory regimes, he said:

"I can see inherent complications in it ... There would be inherent difficulties in running two systems, not least their funding, as has already been pointed out."—[*Official Report, Education and Culture Committee*, 23 April 2013; c 2237.]

The press does not fully sign up to Westminster's proposed royal charter. Alan Cochrane of *The Daily Telegraph* said:

"Although we want a UK system, the Telegraph Media Group does not want anything that is set up by royal charter".—[*Official Report, Education and Culture Committee*, 23 April 2013; c 2238.]

The definite consensus of that panel was for a UK-wide system.

I am therefore pleased that we have cross-party support in the Scottish Parliament for a royal charter in a Scottish context. I am extremely pleased that the cabinet secretary proposed amendments to the charter, particularly in respect of the code, which has been discussed in some detail with regard to the Watson case. The cabinet secretary used the words:

"ensuring appropriate respect in dealing with those who are recently deceased, where the only public interest in them is because of the circumstances of their death, and their near relations."

That is a very important principle. It clearly defines interest in someone who has passed away as something that the press should specifically not pick on.

No one who heard Mrs Watson's evidence at the Leveson inquiry or to the committee on the treatment of her daughter and son could fail to have been moved by the impact that it has had on her and her family. Although, as has been alluded to by other members and in evidence to the committee, the excesses of the press south of the border have not been seen to the same extent in Scotland, the Watsons were resident in Scotland and the initial hurt to them was at the hands of a Scottish publication. If a way can be found to amend the code in a Scottish context to take cognisance of that—careful wording of the proposed amendment could achieve that—it would be a positive amendment for Scotland.

Graeme Dey mentioned the royal charter and the offer of support to journalists. Under paragraph 8D of schedule 3 on recognition criteria,

"A self-regulatory body should establish a whistleblowing hotline for those who feel that they are being asked to do things which are contrary to the standards code."

I return to the evidence to the committee. Professor Eammon O'Neill from the University of Strathclyde said:

"Journalists often consider that they undertake what is as much a vocation as a job. In the workplace, they are often put under the most extraordinary pressure—especially, I am sorry to say, in the tabloids—to do things that they would not normally do. Over the 25 years in which I have been in the business, I have heard innumerable examples, including of young journalists being told to pretend that they are policemen to get photographs of the deceased after an accident."—[*Official Report*, *Equal Opportunities Committee*, 16 April 2013; c 2207.]

Given that compelling evidence, I, too, welcome the charter's paragraph 8D proposals.

In his opening remarks, Dr O'Neill mentioned Lord Leveson's report:

"Some interesting, innovative and clever ideas have come out of the Leveson report. The notion of arbitration and shared costs and the idea of using a carrot-and-stick approach are innovative and could be taken forward."—[*Official Report*, *Equal Opportunities Committee*, 16 April 2013; c 2202.]

That uplifting notion about what has happened with Leveson can take us forward. What has been described as a "carrot-and-stick approach" could make the royal charter appropriate and workable in the Scottish context. It remains to be seen how that might be applied—it may be through the use of police information notices or arbitration—but it is certainly an opportunity to ensure that Leveson is applied in Scotland, and that we have in place an appropriate system that seeks a press that benefits Scotland.

15:27

Liam McArthur (Orkney Islands) (LD): I am sure that the Government's front bench will not take the wrong way my suggestion that this open debate has benefited greatly from Graeme Dey and Graeme Pearson kicking off proceedings with their insights on the issue from their previous incarnations. They highlighted many of the pitfalls, but also underscored the reasons why we are where we are.

Press regulation is an area that all of us enter with trepidation—we all attach a high regard to a free press. As elected representatives, we must recognise not only the challenge function that is provided by a free press at national level, but—as Patricia Ferguson and others have mentioned—

the important role that the local and regional press and indeed, blogs and other media increasingly play in that regard. We may find those challenge functions uncomfortable, but they are crucial to a healthy democracy.

The free press has never been entirely unconstrained—it has always had constraints placed on it in order for it to act responsibly. The editors' code is a case in point; it has been amended to reflect changing demands in regard to what is needed.

Every member who has spoken so far has alluded to the fact that we cannot lose sight of the reasons why we are debating these issues. It is not just about the victims; we must also take cognisance of the issues that Lord Chief Justice Leveson and the expert panel wrestled with, and we must make proposals on how to introduce proportionate changes.

There was general agreement that the current situation is unsustainable; the editors who appeared before the Education and Culture Committee were of one voice in accepting that reform is needed. What kind of reform was the thorny issue with which we had to wrestle.

There were shrill voices on both sides of the argument, which sometimes masked a greater level of agreement than would perhaps be obvious to someone on the outside looking in. It occurred to me that it is ironic that some of the people who point to the democratic deficit of the royal charter are precisely those who argue most strenuously that MSPs and MPs should have nothing to do with regulating the press.

The Government, in conjunction with party leaders, was right—as was the committee—to ignore demands for, on the one hand, heavy-handed intervention and, on the other, a slightly revised status quo. Leveson was clear that despite his misgivings about the activity of elements of the press, the press merits one last chance—the committee soon found it necessary to ban all references to the "last-chance saloon". What interested us, among other things, was the Irish experience, which the cabinet secretary mentioned. It appears that the threat of what might come should the new arrangements fail has led to a degree of consensus on a voluntary approach. From the evidence that we took, it appears that the voluntary approach is working.

As members said, it was not ideal that we had limited time—albeit that the circumstances that gave rise to our having limited time were understandable. As Liz Smith said, we will need to give further consideration to a number of issues. That is reflected in the motion, which sets out the right approach.

The royal charter struck the committee, as it did the Government and party leaders, as being a reasonable attempt to strike a balance that would allow self-regulation to continue, while providing incentives rather than compulsion; that would give the public and victims confidence that the approach will be enforced proportionately, fairly and, where necessary, speedily; and that would provide for statutory underpinning without political oversight.

Members have talked about checks and balances, and carrots and sticks. For the committee, as for the expert panel, it was not terribly clear where the carrots and sticks exist in Scots law. The matter requires further reflection. Whatever the value of the expert panel and Lord McCluskey's recommendations, I do not think that any committee member was persuaded by the argument for going down the route of compulsion.

I welcome the collaborative way in which the Scottish Government has worked with the UK Government. The amendments to the royal charter to enable it to apply throughout the UK are the correct ones; that is the right approach. Although the editors who gave evidence to the committee would recoil at the suggestion that they support the sort of regulation that is proposed, they were of a single voice in articulating that the approach should apply UK wide. Clare Adamson picked up on some of the reasons for that.

The approach provides protection for our devolved competencies, should proposed changes to the royal charter be made, and there are sensible recommendations about how to deal with the concerns that Margaret Watson raised. As Patricia Ferguson and the cabinet secretary said, there are issues that are widespread—sadly—and which need to be addressed.

Fiona Hyslop: I reiterate that the indication is that the UK Government does not accept the proposal that something on coverage of circumstances of deaths be included in the code. That will not stop us trying to pursue the issue in communications with the newspaper industry. The industry has indicated that it thinks that the editors' code currently covers the issue; there is room to pursue that.

Similarly, in relation to some of the technical aspects, it is helpful to get the committee's support for what we are pursuing. We have had indications from the UK Government that it acknowledges the role of the Scottish Parliament in that regard. It is important that the Scottish context is recognised.

I am very keen to continue having dialogue. I cannot come to Parliament today to say that the UK Government has agreed X, Y and Z completely, but I have liaised with the Advocate General in recent days and will continue to liaise

with Maria Miller, the Secretary of State for Culture, Media and Sport, and the UK Government. It will be important to me, as the cabinet secretary for this Government representing the interests of this Parliament, to know that I have the support of the committee and of members in on-going discussions with the UK Government. I thank Liam McArthur for his comments.

Liam McArthur: I am very grateful for that. It was clear to those of us on the committee who heard Margaret Watson's evidence that the area of defamation of the deceased is a legal minefield. Where we can make advances, let us by all means do so, but let us not rush ahead with proposals that would not necessarily address the issues, and which might create a series of additional problems over and above them.

There have been sensitive issues to consider in limited time, but I think that the route that we are going down strikes the right balance, can help to restore public confidence—which has been undermined by the revelations that gave rise to Leveson—and can provide confidence to victims that proper redress will be available. Whatever we put in place, we need to acknowledge that transgressions will occur in the future. We must also recognise that good investigative journalism is the bulwark of our democracy and that a free and responsible press is in the interests of all of us.

The route that we are going down acknowledges that, as the committee states, should this voluntary approach fail, legislation will become inevitable and should be put in place without further inquiry, given the thorough and comprehensive work of Leveson and the expert group. The public will expect nothing less of the Parliament.

I welcome the debate and the tone in which it has been conducted. I am happy to support the motion in the name of the cabinet secretary.

15:36

Bob Doris (Glasgow) (SNP): I was not going to speak this afternoon, but along with a number of other MSPs, I received briefings from local and regional newspapers about their concerns, some of which have been mentioned. I wanted to listen to the debate, consider some of the arguments and then make a few points myself.

When my constituents consider irresponsible press practices, I do not believe that they think about local or regional newspapers; they think about high-profile scandals, which were examined by Leveson. Some of those have been dealt with very sensitively this afternoon, so I will not go over them again.

I grew up in the Vale of Leven and reading local newspapers such as the *Lennox Herald* or the *Dumbarton and Vale of Leven Reporter* played a really important role—not in getting me politicised, but in getting me active in my community, because of the role and function that they carry out. Today as a regional MSP for Glasgow, I know that my constituents and I benefit greatly from similar newspapers, such as the regional *Evening Times* or more local titles such as the *Rutherglen Reformer* or the *Springburn Herald*. Those titles provide an important service and quite often do so under tight budgetary constraints and margins. Graeme Dey put on record very eloquently the pressures that the newspaper industry is under. Local and regional newspapers get it right, by and large, far more often than they get it wrong. The strengths of our press as well as the weaknesses should be recognised.

When the local and regional press raise concerns about how the royal charter and everything that flows from it could impact on them, of course we should listen. Whether we will agree with them fully is another matter, but we should listen to and air some of their concerns.

One editor contacted me—I am sure that the person contacted other members, too—to say:

"The proposed arbitration system will potentially lead to the closure of many of these titles which, instead of being able to deal with small errors in a reasonable fashion and without cost to either side, will face a costly system which will inevitably lead to many frivolous civil legal claims from complainants wanting money not corrections, clarifications or apologies."

I do not know whether that is true, but we have to air that concern and consider what it could mean. If the proposed system is accepted and the press sign up to it, we have to ask what the monitoring process will be, and what will be the business impact of any arbitration system on the local and regional press. It is important that we consider that.

Fiona Hyslop: This was an important area that the committee considered, as well. It is important that we go through what is proposed in the charter in relation to arbitration. It should be remembered that the proposal from the press would have an arbitration system.

Arbitration must be voluntary—in the Arbitration (Scotland) Act 2010, that is part of the premise. It must also operate fairly. Paragraph 22(c) of schedule 3 of the royal charter talks about a process that

"contains transparent arrangements for claims to be struck out, for legitimate reasons (including on frivolous or vexatious grounds)".

That is a fear of some of the local press, and that is in the charter as presented. Paragraph 22(g) of schedule 3 goes on to talk about a process that

"overall, is inexpensive for all parties."

If we believe in arbitration as a system to go forward with as a country—which I think we do, in legal terms—we should also recognise its importance for this system. Regardless of where we get to, we will need an arbitration system.

Nevertheless, I hear what Bob Doris says. That is why I want to continue the discussions with the newspaper industry. I want to ensure that the system that we have in Scotland is effective for all parties, is voluntary and enables us to make sure that those burdens that are being suggested do not impose themselves on our local and regional press.

Bob Doris: I thank the cabinet secretary for that intervention. I need not have worried that I will not be able to find enough things to say during my six minutes. I may now struggle to get through the rest of my speech.

The Deputy Presiding Officer: I will compensate you.

Bob Doris: Thank you very much.

I take on board and accept pretty much all that the cabinet secretary said. When groups have concerns, we reassure them by airing those concerns in a forum such as this, and by addressing them. I thank the cabinet secretary for putting that on the record.

A lot of local titles suggest that, when individuals and groups within communities have issues with newspapers, the matter is addressed speedily and amicably at local level. They want to ensure that the default option for individuals is not to seek arbitration as a matter of course, but to seek local redress in the first instance. It is important that we consider that.

I will briefly mention one or two other concerns relating to the local and regional press. I am pleased that there are now fines of up to £1 million, but fines are to be capped at 1 per cent of turnover. For local and regional titles the impact of fines, if not applied proportionately, could be greater. I do not see that as being an excuse for any local or regional title that deserves a fine, because practice should be of the highest standard, but we must ensure that any system of fines following arbitration is not only consistent, but proportionate.

I smiled throughout the chat about incentives. I agree with incentives, but I have never in my life seen a carrot that looks so much like a stick. It is not really an incentive to say that we will let a newspaper publish public information notices if it signs up to the voluntary regulatory system and that we will not ask the courts to take into account who pays the legal expenses, although we might if it does not sign up to that system. We must be honest and say that that is as much a stick as a carrot; it is to compel the sector as much as it is to incentivise it. I think that it is the right thing to do, but we should not pretend that it is an incentive.

On public information notices, I wonder how much local and regional titles, compared with national titles, rely on that income. Perhaps we might look at whether public information notices could include advertising for appointments to various public sector bodies, higher education establishments and that kind of thing. Titles receive a lot of revenue from that.

How much time do I have left, Presiding Officer?

The Deputy Presiding Officer: Please come to a conclusion.

Bob Doris: I will draw a line under things there—apart from to say that just because one part of the press is currently performing to a high standard, that does not mean that, when we go through the process of voluntary regulation underpinned by royal charter, it will not continue to have the same responsibilities as other parts of the press. Its performing well does not mean that we should be complacent; it, too, must fit in with the new arrangements.

I ask that when the proposed system receives cross-party consent—I hope that the press across the UK will come on board—it will be monitored closely and that, if it does not work for the UK or for Scotland, we will have the power to unpick some of it. However, I am working on the basis that it will be a success rather than a failure.

15:45

Helen Eadie (Cowdenbeath) (Lab): I say at the outset that it is excellent that all the party leaders in Scotland are working constructively to tackle the issues and to balance the need to protect individuals with the need to protect the essential freedoms of the press, which are vital to any democratic country. We need only look around the world to see what happens when there is no press freedom.

I agree with much of what everyone has said. It has been interesting to listen to thoughtful speeches such as the one that Bob Doris made—he raised some interesting questions that will need to be answered in due course. I congratulate people across the country who are working for the forces for good in this extremely important policy area.

I read much of the *Official Reports* of the meetings of the Education and Culture Committee that Stewart Maxwell highlighted, to which I will return shortly.

We know that the royal charter will be presented to the Privy Council on 8 May, which is next week—the timescale is quite short. We know, too, that on 25 April a group of newspapers published proposals for a regulatory body underpinned by royal charter. Those proposals are generally recognised to be a significant departure from the Leveson recommendations and, as such, are unlikely to attract support outwith the industry.

It is interesting to note the difference of opinion that has emerged between Lord McCluskey and the cabinet secretary on a compulsory regulatory system; that needs to be considered further by all parliamentarians. Arbitration is extremely important. I hear what the concerns are—especially those that were raised by Bob Doris—but I think that it is a good principle to have in our systems.

I was interested to read in the *Official Report* that Andrew Harries of *The Scottish Sun* told the Education and Culture Committee that the code of practice for journalists is taken very seriously and that it governs the behaviour of reporters. To me, that goes against all the evidence and suggests a form of denial. Only last week, my office had to take a local newspaper to task because it broke the code of conduct when it reported the suicide of a person who jumped from the Forth road bridge. The report caused huge distress to the family, who live in my constituency. When it was challenged, the newspaper said that it was sorry, that the journalist concerned was new and that there should have been better supervision. That points to the difficulties that will continue to confront regional newspapers, particularly given the financial backdrop against which many of them are operating. Supervision is crucial, but if they are not able to provide it, that raises issues for us, as politicians. We need to provide absolute assurance that that will be enforced.

We know that 60 journalists have been charged with various serious offences and that Andy Coulson has been charged with serious offences on both sides of the border. Throughout their evidence to the Education and Culture Committee, Magnus Llewellin, Andrew Harries and Alan Cochrane all acknowledged that there is something wrong with the system, and I am glad that colleagues recognise that it is critical for consensus to be built if progress is to be made.

The problem that we experienced with phone hacking, as the cabinet secretary said, was that we were dealing with serious criminal activity, which the code was not designed to deal with.

"I would have thought that the public's criticism of the PCC was that it did not point the police and criminal prosecution service in the direction of taking action against people who are deemed to have broken the law."—[*Official Report, Education and Culture Committee*, 23 April 2013; c 2230.]

That comment was made by one of the contributors to an evidence session. The National Union of Journalists has a strong opinion on the issue. Its representative, Pete Murray, said:

"Since well before the hacking inquiry, we argued that the PCC was not working and could not work under a configuration in which the regulator did not have the power to enforce a lot of its decisions and the press proprietors and editors were able to opt in and opt out."

He continued:

"There is a unanimous view among the editors, proprietors, politicians and working journalists that a new system of regulation will have to be enforced and that there is no option to do otherwise, regardless of whether there are punitive damages."—[*Official Report, Education and Culture Committee*, 16 April; c 2210-11.]

We really need to take account of what the hacked off campaign is saying, because it represents the views of so many of the victims across the country. It has said:

"And then there were three. Far from being the work of 'the newspaper industry', the latest attempt to prevent effective, independent press regulation on Leveson lines is being led by just three organisations.

The Daily Mail, the Daily Telegraph and the Murdoch papers—all of them, incidentally, rich and profitable—have learned nothing from the experience of the past two years and they still believe they should have the right to trample over the rights of ordinary people and face no consequences for it.

When, years ago, public opinion turned against them, they refused to print the opinion polls that proved it. When the industry's misdeeds were exposed before and during the Leveson Inquiry they failed to report the evidence or distorted it beyond recognition. And when Leveson made sensible and cautious recommendations they grossly misrepresented them in print and then tried to engineer a private 'fix' with the Conservatives."

That is really what we have got to be so afraid of, because it is a big threat to the royal charter's progress. We know the power and the might of such newspaper barons.

Hacked off continued:

"Now, after every single party in Parliament has backed a Royal Charter delivering the Leveson recommendations, they have come up with an alternative charter that would take us straight back to the world of the old Press Complaints Commission, where sham regulation provided a cover for editors to abuse the public at will."

We really have to be so very much afraid that that is a threat to the progress that is being made.

The campaign continued:

"Their rhetoric is shallow and hypocritical. They say, for example, that Parliament's charter represents political interference in the press, where in fact that charter introduces a whole range of measures to ensure that politicians have no influence whatever over any aspect of regulation.

Their own proposal, by contrast, opens the way for Lord Hunt, a former Conservative Cabinet minister and an active, working Conservative peer, to run their new

regulator as he currently runs the discredited PCC. It would also allow a working Conservative peer and Telegraph boss, Lord Guy Black, to run a funding body that would have a stranglehold on every aspect of the new regulation scheme.

The truth is that, for all their hysterical warnings about state regulation and the spectre of Zimbabwe and North Korea, these three organisations actively want political control of the press—because they are used to controlling the politicians who matter and they think they can go on doing so.

This is about power, but it is not really about the power of the press because for most of us that should be something precious, something that holds authority to account and shines a light on wrongdoing and falsehood. No, this is about the power of a few people at the Mail, the Telegraph and the Murdoch papers who have had things their own way for a very long time and who refuse to see why anything should change. The last thing they want is accountability, and they would never allow their own actions to be reported upon critically in their own papers—or each other's."

The Deputy Presiding Officer (John Scott): You might wish to consider drawing to a close.

Helen Eadie: I am on my last paragraph, Presiding Officer.

"Their charter is a challenge to free speech and an act of defiance against both a collective, democratic decision of Parliament and the considered recommendations of a year-long, judge-led public inquiry. It is also an insult to the public and to all of those who have suffered abuse at the hands of newspapers in the past few decades and who are desperate to see meaningful change."

I will support the motion at decision time and I am very pleased by all the efforts that have been made by all colleagues in this Parliament and at UK level.

The Deputy Presiding Officer: As members will appreciate, we have quite a bit of time in hand—although we are using it up.

15:55

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I start with a quotation from another area of human endeavour that may touch on the matter before us:

"The only ethical principle which has made science possible is that the truth shall be told all the time. If we do not penalize false statements made in error, we open up the way for false statements by intention. And a false statement of fact, made deliberately, is the most serious crime a scientist can commit."

Replacing "science" with "the media" perhaps gives us a hook on which to hang the approach that we should be taking in this case.

I am pleased that there has been a broadly consensual approach on the principles of the matter, and that we have coalesced around a motion signed by all the party leaders. I am sure that there will be matters of detail on which we may take slightly different views, and I am about to broach one where my view diverges.

I see absolutely no case, in what is going to the Queen in Council, for allowing any member of the House of Lords to be part of the new system. The majority of the state's legislators sit in the House of Lords, and this is the only state in Europe where the majority of the legislators hold no electoral mandate from the people. We should not, in any sense, be entrenching any further power in people who have voluntarily chosen to get engaged in the political process in that way. Many members of the House of Lords are very worthy, clever and knowledgeable people, and nothing that I am saying takes that away. However, it dilutes the purity of disconnecting politicians from this important area of public life to allow any member of the House of Lords—however that is restricted—to be part of the way forward.

Liam McArthur: I am interested in Stewart Stevenson's line of argument. I probably share his desire for wholesale reform of the House of Lords, although perhaps through a different mechanism. Does he accept that, just as provisions are being put in place to ensure that this Parliament, if it so chooses and if the circumstances arise, can move in a different direction, we can go back to the royal charter and amend its provisions following House of Lords reform? For the time being, the Lords remains part of the decision-making process at Westminster.

Stewart Stevenson: Liam McArthur talked about a heavy hand earlier. From my point of view, the heavy hand is merely sisted, not amputated. If the charter does not work as a way forward, what Lord McCluskey has incorporated in his report as a draft piece of legislation is something that we might consider picking up and making law. We could put into law that which we are hesitating to put into law at the moment, because we think that there is a last-chance saloon for a supervised system where the regulation comes from within. Getting rid of the House of Lords is something that we could do tomorrow if we had the will—perhaps we should think about doing so.

It has been quite a long and tortuous journey to get to where we are today. We should be careful not to assert as a matter of fact some of the accusations that are still to be tested by the courts. There are some serious accusations of criminality among a relatively small minority of individuals in the media.

It is interesting that we are talking about the creation of a civil system of recourse although, in fact, the spring from which the contaminated water has flowed was that of criminal action, where the threat of going to prison or being fined vast sums of money did not deter. In the proposals before us, we can see the imposition of £1 million fines

making it less financially attractive to break the law. Of course, people should not have to have such sanctions to avoid breaking the law—they should feel naturally that it is their ethical duty not to break the law.

Much of the debate touches on the issue of what is in the public interest and who will be the guardians of that interest, because it is the test of public interest that determines what turns information into news. It has been said that news is something that somebody somewhere does not want you to know. When the public interest test is passed, that thing that someone wants you not to know is properly made available to you so that you know it.

The public interest test is about the balance between the rights of individuals who lose through disclosure and the right of the wider public to know what is going on. How well the public interest test is applied in the new world will be the real test of whether the system is working.

A royal charter carries—it is said—a special protection, as it is a quasi-constitutional bar to easy change of the environment. However, I say "quasi-constitutional" because we live in a state with no formal constitution. There is nothing in law to prevent the House of Commons from working with the House of Lords to overturn anything in the land whatsoever, so I am not wholly convinced that having a royal charter forever offers the protections that some claim it does.

The bottom line is—as I said in the debate on 4 December—that we need to recognise that

"A diverse media, just like democracy, means respecting the rights of those with whom we may fundamentally disagree."—[*Official Report*, 4 December 2012; c 14252.]

If others take a different view from what I have just been saying, so be it—I will not get my way today, but that does not mean that I am not right in the long run.

We need diversity, and we need to respect the rights of our local papers. In my constituency office, I have to read 12 local papers. Equally, where is the boundary between a paper that is covered by the charter and a periodical carrying news that is published in a parish for a readership of perhaps 150 parishioners? It seems that such a publication would be caught by the charter. Even we as politicians could be caught by it if we provide something that is news and which perhaps carries advertising in promoting our electoral campaigns. Is such material included?

There is also a difficulty with the boundary between broadcast media and media that is not broadcast. The definition in Lord McCluskey's draft bill is clear: someone is a broadcaster if they are covered by the Broadcasting Acts of 1990 or 1996, if they are the BBC or if they are Sianel Pedwar Cymru.

Where does that leave Buchan community radio in Peterhead, which broadcasts on the internet but hopes, from time to time, to broadcast for a month or so through the airwaves? Where does it leave Deveron FM in Banff, which is in the same position? Some of the time they will be the media and the press and will be covered by the charter, and some of the time they will not.

The Deputy Presiding Officer: The member might wish to consider drawing to a close.

Stewart Stevenson: The reality is that we need to look at the whole picture, and ensure that we cover all the ways in which people get news and that they are properly controlled.

I thank you for your indulgence, Presiding Officer. I will certainly be supporting the motion today, but I will be hoping for better thereafter.

16:03

John Pentland (Motherwell and Wishaw) (Lab): I am sure that everyone—including the press itself, to some extent—would agree that the press gets it wrong sometimes. It was reported a couple of years ago that 30,000 pigs had floated down the Dawson river in Australia. The following day's *Morning Bulletin* newspaper explained that the piggery owner actually said to the reporter that there were 30 sows and pigs. That must be one of the few occasions on which the correction got wider coverage than the original report.

I highlight that as an example, but the victims of misreporting usually struggle to get corrections, and when they do, they are very lucky if the correction gets anything like equal prominence.

Most printed stories used to have a relatively short lifespan, but the internet means that misreporting can persist for a long time. It can be thrown up in search results often without any link to a subsequent correction, let alone a correction made or added to the original article. The damage that is done to people's reputations and health cannot easily be undone. The rich can seek financial reparation but not many people have enough money to sue the media.

That is why we need a better system that insists on matters being put right. Voluntary codes have repeatedly been shown not to be enough. The situation has been reviewed countless times—about once a decade for the past 70 years. A Press Complaints Commission that is stacked with newspaper people and appointments that the press has the power to veto will never make the grade. We need a system that is independent of Government and free from media interference, that speaks up for people who have been badly

treated, and that has the power to address the injustices caused by people's treatment by the press. We need a system that can regulate press conduct and make a difference when the press crosses the line, that protects people from prurient invasion of privacy, and that can differentiate between issues in which the public has a legitimate interest and those that should be the personal preserve of people who are in the public spotlight. We need a system that values accuracy and can adequately address inaccurate reporting.

We do not want a system that threatens the freedom of the press. For example, the regulator will not have the power to block publication. Our press should have nothing to fear from a good regulatory system.

Newspapers that sign up with the regulator will gain advantage from the terms of legal costs, and claims could be dismissed on the grounds that the claim was frivolous or vexatious, or on other, legitimate grounds. That should help to restore newspapers' somewhat tarnished reputation so that they can become the purveyors of reliable, factual content that has been obtained in the public interest through principled investigative means. It could be argued that they have often fallen short of an ideal that was generally more of a myth than a reality; nevertheless, it is an ideal to which some have aspired and to which all should aspire.

Despite that, we know that the press is still not keen, and why should it be when its excesses led to the proposals and are now being reined in? We need a UK solution. Most members of the press are owned by companies that operate across the UK, and many publications cover the whole UK. Even those that print only local editions have online editions that transcend national boundaries.

In seeking consistency of approach, it has been recognised that various aspects of Scotland's law and institutions need to be taken into account. However, as was stated to the Education and Culture Committee, such issues could be addressed by a relatively small number of largely technical amendments.

I welcome the motion and hope that it will put an end to the days when the empires of Murdoch and other media moguls could ignore the rule of law and common decency. No amount of compensation can offset the impact of wrongful reporting, so if a new system can make the press sit up and take notice, that is to be welcomed.

16:08

Chic Brodie (South Scotland) (SNP): I am pleased to be part of the debate today and I welcome the consensus that has been displayed around it.

Mark Twain once said:

"There are laws to protect the freedom of the press's speech, but none that are worth anything to protect the people from the press."

That was written 150 years ago and it applies as much to the UK now as it did when he wrote it elsewhere. The recent press events that were largely spawned in London and which necessitated the Leveson inquiry showed that nothing has really changed in the past 150 years. The press's own charter proposals, which we saw a few weeks ago, confirmed that it still wants nothing to change significantly.

By and large, we in Scotland have a responsible press. We have our wee bits of intrigue—cosmetic or otherwise—and we will argue over the impoverishment or the partiality of sections of it but, nationally and locally, the press in Scotland is generally responsible.

We have to put that responsibility in the context of the foundations of the Leveson inquiry. Only 0.19 per cent of all transactions with private investigators that the UK Information Commissioner investigated involved a Scottish publication. That does not mean that we should be complacent, but nor does it mean that we should abrogate our responsibilities under the charter proposals, with the support of Scots law, to adopt the proposed changes to buttress the consequences and effects of digital technology and economic pressures on the competitive instincts of the press. Indeed, those pressures have as much impact on the local and regional press as they do on the national media—they are a bit more suppressed, but nevertheless they are there.

Nor should we be blind to the poverty of the political and press regime down south—and this is not a constitutional point. The temple that is London—and I worked in the city for two years—has pillars of greed and avarice. The bubble of the bonus culture, with results achieved at any cost, is gnawing away at the very fibres of an open, transparent society. Just like the bankers and the expense-hungry politicos, the press is a totem of a behaviour that should be alien in Scotland and in the UK, yet we are already seeing the self-serving senior few—and it is only a few in the press—arise, just as the few self-serving bankers did in banking just before them.

If we look at the press's response to the proposed royal charter, we see that the Press Complaints Commission poodle is to be transformed into a bigger and better-shorn poodle, warmed by a regulatory coat. The press wants to remove any political process to amend or dissolve the charter. In its opinion, that could be done only by agreement with the regulator and its own industry-funded body. The criteria for appointment

to the board of its recognition panel are to be limited to those with

"experience and understanding of the newspaper and magazine industry".

No change there, then, and no mention of any public or political appointees—

Neil Findlay: If the member wants the poodle to be put down, what does he want to be brought in in its place?

Chic Brodie: I will come to that.

There is no mention of any public or political appointees to protect consumer and human rights. The so-called allowance for different classes of members—in other words, regional press as opposed to the national press—is, I believe, a fig leaf, so it is right that we speak with one voice here today.

The cosy Oxbridge elite—the Bullingdon boys club in press and politics alike—are indeed the inhabiters of the bubble of which I spoke. To answer Mr Findlay, we have to be ready and prepared if the Westminster consensus cannot be maintained—and I am not sure that it can. We hope that Mr Cameron's resolve will be stiffened, along with the resolve of the other party leaders at Westminster, but the next week will tell us whether it is. If it is not, we have to arrive at a Scottish solution to a problem that was not made in Scotland, although in some cases, it applies to the UK titles that are distributed here.

We should also remind those national titles that they are public companies and they are subject not just to the regulation that we are talking about, but to the rules and regulations that are imbued in the Companies Act.

Patricia Ferguson: I understand Mr Brodie's need to put some kind of ring of steel around the Scottish press, but I remind him that the newspaper that caused the original hurt to the Watson family was a Scottish title that is based in Scotland. We cannot pretend that we are somehow removed from the problem. Such cases may not have happened here as often or the problem may not be as bad here, but one of the worst cases that I have ever seen was that of the Watsons, which started here in Scotland and then went south.

Chic Brodie: I was trying to establish a proportionate perspective on the matter, but I do not in any way seek to diminish the issue, whether it relates to the Watsons' terrible situation or any other circumstance. I was trying to invoke what is happening to the press generally, which I think underpins my point that, as we have less of a problem here, our press probably has a higher degree of responsibility.

The consensus in the Education and Culture Committee was that the current system of press regulation is not sustainable. In the event of a failure at Westminster, we will need to secure a strong underpinning of a Scottish solution within the terms of Scots law. I think that most of us share the view that, while accepting Patricia Ferguson's point, in general in Scotland we have a good, powerful and influential press and media in all their forms, and that, largely, they try to meet their responsibilities.

Strong, robust reporting and investigative journalism have been keystones of our democracy in the past, as they are in the present and will be in the future. Of course, robust reporting must be fair, balanced and respectful of those who are indirectly affected by it, but the press must be able to retain its freedoms. A royal charter that embraces the press's voluntary willingness to participate, while recognising the need for fairness and balance and for discrimination in favour of victims, is very much needed. There must be a willingness to address complaints through a complaints process and to continue to retain, attain and promote high standards among the Scottish press. There must also be agreement on the need to arbitrate quickly on challenges. Those things are essential to reinforce confidence in a more distinct Scottish media industry—

The Deputy Presiding Officer: You might wish to draw to a close.

Chic Brodie: Today's important debate has been wide, extremely varied and, I believe, positive. Parliament has met and will meet the issue head on; the consensus in the cross-party committee and our willingness to support Westminster—we wish it good luck—shows that we are ready to do so.

The Deputy Presiding Officer: I call Patrick Harvie, who will be followed by Joan McAlpine. I can give you a generous six minutes.

16:17

Patrick Harvie (Glasgow) (Green): It is very much to be welcomed that we have reached consensus on the recognition of a responsibility to act in devolved areas—it might have been politically easier to duck the issue—to the extent that we have been able to lodge a motion with the names and support of all political parties. I was happy to add my name to the motion.

Comment has been made on whether the issue is every bit as significant for the Scottish press and whether it reflects the operation of the Scottish press. Notwithstanding the agreement that exists across the political spectrum that the treatment of recently deceased people is an issue that needs to be taken seriously—I wish the cabinet secretary

well as she continues to advocate to the UK Government the need for changes on that—it is true that the general culture of the press has shown up in worse behaviour south of the border than in Scotland. However, even if we acknowledge that, I do not think that such differences matter very much in considering what regulation is necessary for the press.

It is not enough to point to the now defunct *News of the World* and say that Scottish titles were not responsible for the worst of this deteriorating culture. The proposals for regulation must be about the future. Of course, we must learn lessons from the past and ensure that the regulation is informed by past conduct, but the proposals need to be about the future. The proposals for a new regulatory regime must be right for the industry as it is, rather than for the industry as it has been over recent years.

We have two competing versions of a royal charter: one from the UK Government and one that was published more recently by the industry. Frankly, I thought that it showed a bit of nerve for the industry to come up with a rival royal charter, which seemed to imply that it has a rival monarch and a rival privy council to which it can present its rival royal charter.

The differences between the two documents are important. The industry's proposal contained no democratic check at all on future amendments to the charter. We have heard from Bob Doris and others about the importance of whistleblowing arrangements, but that was another aspect that was deleted from the industry's proposal.

If the industry's proposal was followed, I would have a clear expectation that, very soon after the new regulator was up and running, the same old practices would resume and we would go back to business as usual. The executive summary of the Leveson report describes some of those practices. Paragraph 34 states:

"there has been a willingness to deploy covert surveillance, blagging and deception in circumstances where it is extremely difficult to see any public interest justification."

In pursuing targets of investigations who might be unwilling or find it unwelcome,

"the virtue of persistence has sometimes been pursued ... to the point of vice, where it has become (or, at the very least, verges on) harassment."

What beautiful understatement.

The report mentions door-stepping, chasing by photographers and persistent telephone calls, and I am sure that members from across the spectrum could add to that list of unwelcome and unacceptable practices. In the absence of a whistleblowing arrangement, as the industry wishes, I am sure that many of those practices would continue and that people who are perhaps unwilling, such as junior members of staff on papers, would be unable to resist the pressure to participate in those activities.

Liam McArthur: I agree whole-heartedly with Patrick Harvie's points on the industry's alternative royal charter, but that charter is at odds with some of the evidence that the Education and Culture Committee took from editors, who seemed to accept the need for some form of whistleblowing arrangements to provide confidence to the workforce and to the public about future behaviour.

Patrick Harvie: I must admit that I have not read the *Official Report* of the committee's proceedings, but I will do so. It seems odd that the editors made that case in the committee and then chose to delete the text on that in their version of the royal charter.

Another difference appears to be that the industry wants to make it harder to bring complaints on behalf of groups in society, which is an issue that has been important to me. Volume 2 of the Leveson report—at paragraph 8.37, if anyone wants to look it up—talks at great length about the treatment of minority groups as well as women in many aspects of the press. For example, it cites the treatment of Muslims and refers to

"a Daily Star article entitled 'Poppies banned in Terror Hotspots', which suggested that a ban on the sale of Remembrance Day poppies had been imposed in certain Muslim populated areas, where no such ban existed".

It also refers to

"A Daily Express article entitled 'Muslim plot to kill the pope', which reported on a non-existent plot"

and

"A Daily Mail article entitled 'Cafe wins fight to fry bacon after Muslim complaints' which implied that complaints to a local authority which had sparked enforcement action ... had been made by Muslims",

when that simply was not the case.

Leveson cites many other examples of appalling treatment of transgender people, welfare recipients and asylum seekers, which is something that members in this Parliament, particularly those who represent Glasgow, which has a high proportion of asylum seekers, should take very seriously. He concludes:

"Overall, the evidence in relation to the representation of women and minorities suggests that there has been a significant tendency within the press which leads to the publication of prejudicial or pejorative references to race, religion, gender, sexual orientation or physical or mental illness or disability."

The suggestion that the industry would close down the opportunity for third parties to represent

the interests of those who, for a range of reasons, are often unable to represent themselves by bringing a complaint is appalling.

It is important to mention that free speech and the freedom of the press are not the same thing. Free speech is a right that we expect to be able to exercise as citizens and individuals. It is not the same as the freedom of big business making huge amounts of money, in some cases, by exercising an extremely powerful platform in society. Both those freedoms matter but neither is absolute. All freedoms in society have their limits, and the breadth of those limits should matter to us all.

Freedom for serious investigative journalism is crucial, but even the more heavily regulated broadcast journalists have shown that it is possible to pursue serious investigative journalism. How important do we really think it is to have the freedom to turn people's private lives into salacious public gossip, to malign whole sections of the community and undermine the compassion that people feel for one another in our society, or to abuse and misuse scientific truth?

I thought that Stewart Stevenson was going to comment on this following his opening remarks, but anyone who heard the *Daily Mail* journalist on "Question Time" the other week trying to defend that newspaper's abysmal treatment of the measles, mumps and rubella vaccination issue heard about one of many examples in which the misuse and abuse of scientific truth has cost lives and put others at risk. Such issues should be actionable. It should be possible for third parties to make complaints.

Any other industry would simply expect to be regulated by Government. If self-regulation is to be given one more chance to succeed, the press must make a genuine attempt. I urge the UK Government to hold its ground and pursue its own version of the royal charter. I give my support to the cabinet secretary in pursuing the amendments for which the Parliament has argued.

The Deputy Presiding Officer: I now call Joan McAlpine, who has a generous six minutes.

16:27

Joan McAlpine (South Scotland) (SNP): Before I start, I draw members' attention to my entry in the register of members' interests, in that I write a column for the *Daily Record* newspaper.

My experience in the press goes back a long way. It was my entire career up to my election to the Parliament. I have worked in the local press—I started on the *Greenock Telegraph* and the *Carluke Gazette*. I have also worked on *The Scotsman*, *The Herald* and *The Sunday Times* as a reporter, feature writer, columnist and editor.

I have genuinely struggled with the topic of press regulation since the beginning of the Leveson inquiry. The cabinet secretary will be pleased to hear that I will support the motion, but I will touch on a few aspects of my experience to show that, sometimes, journalists struggle with difficult ethical dilemmas. We have heard from other members about some of the worst abuses, but sometimes there is a fine dividing line.

My experience from newspapers is that there are people who take offence extremely easily. Politicians in particular take offence extremely easily, and they are surpassed only by other journalists. I think that I received more complaints from other journalists than I did from politicians over my career.

There are important points to draw out. The editors' code says that we should be balanced. Of course we think that reporting should be balanced, as Chic Brodie said, but the journalist who inspired me in my early career was John Pilger. He is a brilliant journalist, but many people do not think that he is a balanced one. John Pilger himself has argued with the idea that there is an absolute truth somewhere. He disagrees with that and says that there is a manufactured consensus.

Patrick Harvie: I understand the member's point about the difference between politicians, who might be regarded as fair game, and the interests of others, but there is a connection. If one of the more homophobic newspapers does something nasty about me, my skin is thick enough for it not to affect me too much, but that same material is seen by children and others in homes, workplaces and schools around the country. The impact of that homophobic material that is published by those newspapers may not directly affect me, but it affects many other people who are exposed to it.

Joan McAlpine: The member makes a fair point. I would condemn any homophobic material, and we should use the laws on hate crime and on fomenting hatred to fight against that sort of thing.

I want to raise one issue that came up quite early in my career when I was a feature writer for *The Scotsman.* It was during the prime ministership of the late Margaret Thatcher, and I did a series of articles on poverty. I felt very pleased with them. I interviewed a lot of people on a particular housing scheme, including teachers from the local school and parents, and I wrote about the effect that intergenerational poverty had on people. One of the strongest pieces, I felt, involved the headteacher from the local school, who talked about the challenges that she, her staff and the children faced.

I felt that the series of articles was sympathetic to the scheme and to the experiences of people who were living in poverty, but a number of people

on the housing scheme were offended by the series of articles because they did not like the terms “poverty” and “poor” being used in relation to their community. They had a genuine point, but I give that example to show that sometimes, despite the best of intentions, people can take a great deal of offence.

We all agree about the need for reform in relation to intrusion into private grief. I do not think that anybody who sat and listened to Mrs Watson giving evidence to the committee last week could have failed to be moved. She has suffered the loss of not one but two children, and we could see that her pain is still raw as a result of the way in which she has been treated in the media.

On the general point about intrusion into private grief, I note that journalists sometimes have to work with bereaved families in order to tell a story that then changes policy, just as we as politicians use human narratives to tell stories about why policy needs to be changed.

I can illustrate that by drawing on my own experience. At the time of the Dunblane murders, there was a campaign across the media for changes to the gun laws. The Dunblane case is interesting because it probably marked a watershed in that the media respected the parents’ privacy. The media did not intrude into the funerals, for example. That was regarded as a breakthrough. However, journalists had to build up a relationship with some of the bereaved parents and some of the parents whose children were injured in order to tell the story, which then gave extra emotional weight to the campaign to have the law changed.

That is a difficult issue, because sometimes journalists can build up a relationship that works well, but they have to make the approach in the first place—that is all that I am saying. Sometimes, journalists do that for the best of reasons. It is important to follow the editors’ code.

The reason why I support the motion is because of some of the evidence that was led in committee. I was particularly struck by those who argued that, basically, what we are talking about is the editors’ code as it currently exists. Underpinning that, I was persuaded by the fact that both the NUJ and the professor of investigative journalism Eamonn McCann are sympathetic to regulation because we see ourselves as professionals, and professionals have to uphold certain standards. I was persuaded by them—

Neil Findlay: Will the member take an intervention?

Joan McAlpine: I am over my six minutes, so probably not.

The Deputy Presiding Officer: I would be grateful if you could draw to a close, please, Ms McAlpine.

Joan McAlpine: I was also persuaded by David Sinclair from Victim Support Scotland. He sat on the McCluskey review and he is a journalist, and in both capacities he felt that the press was not working.

For all those reasons, I congratulate the cabinet secretary and indeed the Opposition party leaders on working together to come to a consensus. Sometimes, we need to set our own views aside—

The Deputy Presiding Officer: You must close now, please.

Joan McAlpine: —and say, “What is the right thing to do?” For that reason, I am happy to support the motion.

The Deputy Presiding Officer: We are now back on time. My thanks to all those who made Herculean efforts to get us to where we are in the debate.

16:35

Alex Johnstone (North East Scotland) (Con): The debate has been characterised by the level of consensus, which I hope not to destabilise too much during the course of my remarks.

The background against which the Leveson inquiry into the culture, practices and ethics of the press took place has been detailed already by many members. It was a background of unethical and illegal conduct on the part of some sections of the press, alongside the long-overdue realisation of the fundamental failures of the existing regulatory regime.

The inquiry also took place against two broad propositions, accepted almost universally across the political spectrum. The first was that the status quo was not tenable and was not an option for the future. The second was that the answer to the question, “Who guards the guardians?” could not be, “No one.”

In the previous debate in Parliament on the Leveson recommendations, Ruth Davidson made it clear that we now have an opportunity not only to restore faith in the regulation of the press but to put the public interest back at the heart of everything that the press does. That is what the UK and Scottish Governments have been seeking to do over the past five months.

When the Conservatives in Westminster and the Scottish Conservatives in Holyrood responded to the Leveson report’s recommendations, we made it clear—unlike some other parties—that statutory regulation of the press would not just be unwelcome but would fundamentally threaten

freedom of the press. The value of a free press to our society can hardly be overstated. It is part of the lifeblood of our democracy and is never something to be sacrificed or even imperilled lightly.

We also made it clear that, if we truly believe in a free press, it is not possible to force a solution on the industry. That is why we opposed a mandatory, statutory-based regulatory system and why we are unconvinced by the recommendations of the Scottish Government committee that was headed by Lord McCluskey.

Five months on from the publication of the Leveson report, we seem to be making at least some progress north and south of the border. With the support of all the main UK political parties, the UK Government has agreed and published a royal charter to implement the Leveson recommendations. The royal charter has benefited hugely from hundreds of hours of detailed negotiations with victim representatives, political parties and the press itself. It will provide for a regulatory system headed by an independent, self-regulatory body; an arbitration service for victims; speedy complaint-handling mechanisms; and the ability for regulatory bodies to levy fines on newspapers of up to £1 million and require the publication of apologies.

Unlike what was in Labour's initial plans, the royal charter will not be underpinned by statute, but there is a statutory clause that will require a two-thirds majority in Parliament to alter its content. In that sense, the proposed royal charter will guarantee even less risk of political meddling with the regulatory system. Given that fact, we disagree with the industry's alternative proposals on that matter.

Stewart Stevenson: Will the member take an intervention?

Alex Johnstone: No. I have a limited time and a text that I need to get through.

I turn to the Scottish context. As the Conservatives argued five months ago, a separate Scottish solution for a regulatory system is unnecessary and unworkable. It is unnecessary because newspapers here are well used to dealing with cross-jurisdictional differences in Scots and English law while nonetheless operating under a unified regulatory system. That is not an issue under the current system.

A separate Scottish solution is unworkable because it would mean the burden, as well as the cost, of two regulatory systems, and there is no appetite for that. In that respect, we welcome the Scottish Government's recognition of the unworkability of the McCluskey proposals. They are not practical, desirable or affordable.

The cabinet secretary has mentioned the Scottish Government's suggested amendments to the UK Government's proposed charter to ensure its full compliance with Scots law. Those are quite reasonable suggestions.

On the Scottish Government's proposal with regard to the Watson case, that issue is, due to subsequent redrafting, adequately covered by the editors' code of conduct. Under clause 5, on intrusion into grief or shock, there is a requirement for publication to be "handled sensitively" when a deceased person is the subject of a story. Nonetheless, we remain open to more explicit mention of the treatment of the recently deceased in the code or in its accompanying handbook.

There are challenges ahead that cannot go without mention. Last week, the press industry published its own alternative royal charter. It seems that that move was not intended to thwart the negotiation process; rather, it was a symptom of the breakdown in communication between the press on the one hand and the UK Government, Opposition parties and other interest groups on the other.

There are a small number of practical differences between the industry and Government proposals. First, there is the issue of the code committee's membership. Under the Government's plans, serving editors and industry figures would be virtually excluded from appointment; under the industry proposals, serving editors would be excluded from the main adjudication bodies but they would have an input into the code committee.

The code of conduct, which was produced by serving editors and industry figures, was not criticised in Lord Justice Leveson's report. That was one area of the current regime that seemed to work well. It therefore seems reasonable that the industry, as well as those who use the code, should have a say in its drafting and content, without that undermining the Leveson principles.

Secondly, the industry's proposal suggests an alternative pilot damages arbitration service on an "inexpensive" basis rather than the Government's proposed free counterpart. That seems to reflect the fact that the industry cannot sign up to a "free" arbitration service whose cost is wholly unknown. It would also ensure that titles that played no role in the crisis that led to the Leveson inquiry will not be unduly punished by paying heavily for the sins of others.

Much has been said in the debate, and it is reasonable to suppose that the motion will be agreed to. Reaching consensus is important and, when we agree the motion, we will have taken a step forward towards achieving our joint objective.

16:43

Neil Findlay (Lothian) (Lab): In the debate we have travelled from the House of Lords to Banff and Buchan FM with Stewart Stevenson and from south Australia to Motherwell with John Pentland—and rightly so; the modern press and media are a global phenomenon with no respect for borders.

We have had some excellent speeches and, like the clichéd football manager, I will say that I do not want to pick out any individuals only to immediately do so. The speeches delivered by Helen Eadie, Patrick Harvie, Graeme Dey and Graeme Pearson in particular were excellent and insightful.

Since the exposure of the phone-hacking scandal, a broad debate has developed across the UK and the world on press conduct and ethics and on how we should regulate our press. That is of fundamental importance not only for the newspaper industry but for the functioning of our wider democracy, which many members have mentioned.

At its best, the press holds decision makers to account and exposes wrongdoing and hypocrisy. It provides scrutiny, it stimulates public discourse and it can be a great educator. When I taught in schools, we often used different newspapers to stimulate discussion, particularly in the social sciences.

However, as we found out through the Leveson inquiry, the press does not always adhere to high ethical standards. Leveson laid bare elements of the press—I stress the word "elements"—that appeared to be out of control, unaccountable and all-powerful. They appeared to have a grip over politicians and often seemed above the law of the land.

We know the names of the celebrities who have been subject to press intrusion—to libel, phone hacking and all the rest of it. Household names such as J K Rowling and Sienna Miller came before the inquiry. The relatives of famous people have also suffered. Charlotte Church's mother's experience was particularly disturbing.

Such people have undoubtedly been wronged, but the public's sympathy lies more with people such as the Bowles family, who suffered extreme press intrusion after their son died in a bus crash while he was on holiday, the family of Milly Dowler, whose experience is simply beyond comprehension, or Christopher Jefferies, the landlord in Bristol who was hung, drawn and quartered by the press, despite the little fact of his complete innocence—we all remember the photographs of him.

Several members, including Paul Martin, Patricia Ferguson and Stewart Maxwell, talked about the case of the Watson family. The Watsons' daughter was murdered and their son committed suicide because of the subsequent press intrusion. Mrs Watson gave evidence to the committee a few weeks ago. Her evidence was moving and very disturbing. After all this time, she still feels that she has not had an appropriate apology from the publications involved. The editor of one of the newspapers apologised at the committee meeting, but I hope that, in light of Mrs Watson's powerful comments, that publication will look again at the issue and consider how to make the fulsome apology that the family is looking for.

Helen Eadie brought us back to reality by telling us about a current case in her constituency. However, it is not just individuals who have been wronged. Communities have been tarnished by and written off in newspaper caricatures that bore no resemblance to the reality of life on the ground. I can think of a few communities in my region whose people have been insulted and stereotyped and which are seeking to rebuild their reputations after enduring inaccurate reporting.

We should also consider how industrial disputes are reported and how the people involved are presented by some sections of the media. Graeme Dey talked about that in his excellent speech, and the NUJ has raised the issue with me. And who could forget the appalling reporting of the Hillsborough disaster, when an entire city's reputation was traduced by a particular newspaper?

Our duty is to look at what has been proposed in Scotland and throughout the UK. As we heard, the royal charter will underpin an independent regulator, which will be predicated on the guiding principle of freedom of the press and will have the power to impose fines and demand prominent corrections. As Patricia Ferguson said, it is crucial that the regulator will not have the power to veto publication. People who appeal to the regulator will have access to a cheap and efficient arbitration service.

I listened to what the cabinet secretary said when I asked her why she thought that the McCluskey report had gone beyond its remit, but I am still rather in the dark. I will take an intervention from her if she wants to intervene. I still do not know what her view is on how far McCluskey went beyond his remit.

Clare Adamson: The Education and Culture Committee has considered a number of reports, such as the Donaldson report, the McCormac report and the McCluskey report. Does the member agree that reports can inform the debate but should not tie anyone's hands and that it is reasonable for a committee member, the

committee as a whole and the cabinet secretary to have an opinion on a report?

Neil Findlay: Absolutely—I would just like to hear more of that opinion.

Those arguing against a royal charter cite concerns that press freedom and independence will be threatened. Some might argue that the press is free only for those who own it—I think that that was the point that Patrick Harvie was making—but I can see why people might raise the issue. We need to protect journalistic and editorial freedom and to ensure that there is no political interference in the press, but surely the independence of the press and its ability to report, scrutinise and act as the fourth estate will be enhanced, not threatened, by the proposals. The charter should help to uphold and raise press standards and prevent the individuals responsible from reverting to the murky depths that Leveson exposed.

We heard limited evidence in committee—Liz Smith and Neil Bibby covered that. I think that all the committee members would agree that the process that we went through was wholly unsatisfactory, given the limited time that we had to look at the issue. What we heard from the newspaper editors was encouraging—they accepted that things had to change—although they maintained their position that unfettered self-regulation is the way to go. The consensus is that that is not a suitable option, given what we now know. Self-regulation clearly failed in the past. We need a new and more robust system that will prevent abuses and provide a means of redress to those who are wronged.

We cannot have the Government controlling the press, and neither can we have elements of the press running amok with impunity in the way that they appeared to. The world has changed post-Leveson and I hope that it has changed for the better.

I am minded to believe that on this occasion both Parliaments—Westminster in developing the charter and this place in accepting it—have got the balance right. A royal charter that stays true to Leveson with some concessions to the press seems to be a balanced and fair outcome and one that can perhaps reassure the far too many people who have been victims of those in the media who sought to ply their trade outside the law.

The Deputy Presiding Officer: I call the cabinet secretary to wind up the debate on behalf of the Government. Cabinet secretary, you have until around or just after 5 o'clock.

16:52

Fiona Hyslop: I am pleased to close the debate on the implications for Scotland of the royal charter on the self-regulation of the press. I am glad that we have been able to debate a motion that is supported by the leaders of all the parties in the Parliament. I am grateful for their support and for the constructive discussion that we have had since the Leveson inquiry report was published. Because of that, we have had a largely consensual as well as constructive debate. Members have made pertinent points and suggestions and I will try to reply to as many of them as I can.

We benefited from strong speeches, particularly from Graeme Dey, with his journalistic background, who added an important point about the importance of the protections that journalists have. Patrick Harvie was correct to identify that the press wants whistleblowing to be removed from the on-going debate. Graeme Pearson's valuable contribution drew on his 30-year police career. It was important to hear from Stewart Maxwell, the committee's convener, whom I thank for setting out what the committee has managed to do in addressing some of the issues.

The question that we should ask is whether the royal charter really delivers the Leveson proposals. Our view, which the hacked off campaign shares, is that it does. There are differences, but they are few. There are two main ones. First, Lord Justice Leveson recommended that fines should be up to a maximum of £1 million or 1 per cent of the publisher's turnover—whichever is lower. The charter refers to 1 per cent of the publication's turnover, not the turnover of the publisher as a whole. That is a concession in the direction of the press, although it can be justified on the grounds that a publication's turnover reflects its circulation and that having a link between circulation and the fine arguably reflects the damage that might be caused by malpractice, which will relate to circulation size.

Secondly, the charter places a lot of responsibility for agreeing the standards code, which we have talked about, with the code committee, which will have a majority of journalists and editors. The board of the regulatory body will have a veto over the standards code. Both those differences from the original recommendations favour the press.

A number of members mentioned the regulator's complaints-handling and arbitration functions. It might be helpful to set out that Lord Justice Leveson saw the regulator's three key functions as standards enforcement, complaints handling and arbitration. Standards enforcement is about ensuring that newspapers operate to the appropriate standards.

The current Press Complaints Commission can consider individual complaints but lacks the ability to investigate systemic problems in individual papers or companies or in the press as a whole. The new regulator will have the power to do that. As its name implies, the Press Complaints Commission already handles complaints, and Lord Justice Leveson acknowledged that it does that quite well. The new regulator will have some powers to consider third-party complaints. That is a welcome development, which Patrick Harvie brought out when he spoke.

The function of arbitration is new; it offers an inexpensive and swift way of resolving disputes that might otherwise have gone to court. I repeat that it is voluntary and involves only parties that are directly affected—there is no third-party arbitration. Particularly in relation to the points that were made about the local press, it is important to stress that the arbitration service is intended to offer an alternative to the courts that is attractive to the press—including the local press—and complainants through being less expensive and quicker than going to court. Arbitration will be voluntary, and the aim is to achieve a system that the press positively wants to use.

There is a distinction between complaints and arbitration. Complaints are about activities that are against the code but do not give rise to legal action as defamation does. Arbitration is a quicker and less expensive way of dealing with matters such as defamation that could alternatively be pursued in the courts.

I set out in an intervention on Bob Doris the points, which are in the charter, that the process must be inexpensive and that frivolous or vexatious cases can be struck out. I also reiterate that there must be a high bar for arbitration. Arbitration will be available only when a case meets the criteria for being pursued in the civil courts. Arbitration is not about dealing with complaints against the standards code in a more expensive way; rather, it is about dealing in a less expensive and more efficient way with breaches of civil law that might otherwise have gone to court. The availability of an arbitration service is one of the incentives that we should consider further as we deliberate on the matter.

It is true that one of the incentives that Lord Justice Leveson suggested was protection against exemplary damages. However, as Patricia Ferguson pointed out, that would not really work in Scots law, because we have not had exemplary or punitive damages since 1907—that was well set out in the expert group's report—and the Scottish Government is not attracted to the idea of reintroducing them into Scots law for the sole purpose of then exempting the press from them.

A range of other incentives are available. One possible incentive is that, when public information notices are required to be published in print, they should be in the regulated press, to recognise its standing. However, Bob Doris should remember that there is a strong drive from local government to relieve local authorities of the requirement to place notices in local papers. That has been continually requested of us.

A number of members raised the Watsons' case, including Liam McArthur, Clare Adamson and Paul Martin, who has supported the Watsons as their local MSP. It is disappointing that the UK Government seems to be reluctant to open up the text of the royal charter. However, any reference in the charter would simply be a means of trying to get a provision into the code. As I said earlier, I have written to Lord Hunt, the chair of the Press Complaints Commission, to ensure that that is taken account of as plans develop. As we have indicated, he has taken a strong interest in the case.

Patrick Harvie raised the issue of whether comments by private individuals might get caught up in the regulation of the press. The expert group's remit and definition drew on a definition from the Department for Culture, Media and Sport that has since been refined, including in the Crime and Courts Act 2013, so that only publishers that are commercial businesses with 10 or more employees and whose publications are written by different authors and are subject to editorial control qualify. Individual blogs and social media are not caught. That might also address Stewart Stevenson's concern.

The Deputy Presiding Officer: There is too much noise. Could members carry out private conversations later, please?

Fiona Hyslop: Liz Smith and Helen Eadie emphasised the importance of enforcing the criminal law. I very much agree with that, and the First Minister stressed that in his evidence to the Leveson inquiry and when he spoke in our debate on 4 December 2012. Enforcement of the criminal law is vital but is not enough. Lord McCluskey eloquently pointed out to the committee that some of the issues in the cases of the Watsons, the McCanns and J K Rowling were not necessarily matters for criminal law but should, nevertheless, have been subject to some means of remedy. That is why we need effective regulation of the press.

I am grateful for the speeches that have been made today, just as we have been grateful for the contributions of the party leaders and the Education and Culture Committee. They have brought us to a place where the Parliament can unite in seeking to use the royal charter to establish a voluntary self-regulatory system for the

press that is fit for Scotland and—most important—for the victims of press malpractice.

On the basis of the debate, we will take forward our discussions with the UK Government. I assume that members are aware that the First Minister and the Lord Advocate are privy counsellors. We will continue to work with the press and the UK Government on implementation. United support from the Scottish Parliament will help to deliver a strong message, and I hope that we will secure support from across the Parliament for the important motion that we have presented to it.

Decision Time

17:00

The Deputy Presiding Officer (John Scott): There is one question to be put as a result of today's business.

The question is, that motion S4M-06388, in the name of Fiona Hyslop, on the implications for Scotland of the royal charter on the self-regulation of the press, be agreed to.

Motion agreed to,

That the Parliament notes the publication on 29 November 2012 of Lord Justice Leveson's report, *An inquiry into the culture, practices and ethics of the press*; further notes the subsequent production of the draft *Royal Charter on self-regulation of the press* on 18 March 2013; agrees to Scottish participation in the Royal Charter, subject to its amendment to reflect properly Scotland's devolved responsibilities, Scots law and Scottish circumstances; further agrees to consider possible incentives for membership of a new regulatory body for the press, and asks the Scottish Government to proceed on this basis, recognising that, in the event of a material change to the text of the Royal Charter, the Parliament will be consulted again.

Social Tourism

The Deputy Presiding Officer (Elaine Smith): The final item of business is a members' business debate on motion S4M-05625, in the name of John Mason, on social tourism. The debate will be concluded without any question being put.

Motion debated,

That the Parliament affirms the economic and social value of social tourism, a term that describes efforts to include people living on low income, dealing with physical or mental impairment or experiencing other disadvantage, in holiday and leisure activities; highlights what it considers the positive enhancement of the quality of family life through equitable access to high value rest and recreation regardless of disadvantage or poverty; believes that partnership working between tourism and welfare sector partners can improve the quality of family life for those parents and children who experience disadvantage as a result of poverty through the provision of and by promoting access to holidays and other recreational activities; notes what it considers the significant economic and social benefits brought by social tourism programmes in countries such as France, Spain and Belgium; considers that increased social tourism initiatives in Glasgow Shettleston and across Scotland would be of benefit to both struggling individuals and families, contribute to the work of social welfare organisations and strengthen the wider tourism sector, and would welcome the growth of social tourism in Scotland.

17:02

John Mason (Glasgow Shettleston) (SNP): One or two members suggested that I should move my seat because I was sitting in the sunshine, but—surprise, surprise—it has gone.

We are talking about tourism; more specifically, we are talking about social tourism. I thank the Presiding Officer and members across the chamber for their support in obtaining the debate.

Social tourism is one of those subjects that many of us did not know much about. I first had contact with John McDonald and the Family Holiday Association when I was at Westminster, and the more familiar I have become with the whole idea of social tourism, the more enthusiastic I have become about it. The key point for me is that people on low incomes should and need to be able to have holidays. The secondary but still important point is that social tourism can be a boost to our tourism sector. Other members may focus more on the second point, but I would like to concentrate on the first.

I suppose that the first issue that we would expect to come up on the topic is the belief that a holiday is surely a luxury, to which people on low incomes have no right. I very much want to challenge that assertion. I think that we now recognise that having a job does not guarantee a route out of poverty. Numerous studies, including the Finance Committee's recent study on employability, have confirmed that people have a wide range of needs, which include physical and mental health needs, as well as a need for an income of a certain level.

Many of us know how much we benefit from getting away for a week or two. It need not be hugely expensive or luxurious, but getting away from our normal environment, with all the pressures and routines that we are subject to, can set us up for re-entering the fray on our return. One of my preferences is camping in a tent. I find it tremendous to be away in the fresh air, when I can get more physical exercise without being under any pressure to get up at a particular time in the morning, which is the case even in bed-and-breakfast accommodation. I accept that living in a tent is not everybody's cup of tea, but there are other ways of having a reasonably inexpensive break or holiday, or even just a weekend away, whether it be in caravans, holiday parks or guest houses, among other options.

Given that stress affects us across the income spectrum and is a key factor in people's health in poorer areas, I would argue that holidays and leisure activities are also necessary across the income spectrum and are not just a luxury available only to those on good incomes. Those points are supported by research, as members may have seen in the Family Holiday Association's briefing. For example, the University of Nottingham has done a study that showed that 77 per cent of families were happy after a holiday, that 70 per cent were more optimistic and that 74 per cent had a more positive outlook on life. A study by the University of Westminster and the University of Surrey showed that families felt closer after a holiday and felt rejuvenated after a break from the stress and worries of their normal life.

Members might say that we do not need academic research to tell us that, and I would largely agree. However, in a sense, that makes the point. It is pretty obvious that a break from the usual routine is a good thing, so, logically, we should make it happen as much as we can. The statistics that we have show that in the United Kingdom 2.5 million children are in families who cannot afford even a day trip to the seaside; I reckon that the proportionate figure for Scotland is about 200,000. Similarly, 3.5 million children do not get even a week away in a year; again, proportionately, that is about 280,000 in Scotland.

One of the facts that shocked me when I took part in a conference in London on poverty was that there are kids in London who have never seen the Thames. We could have similar stories here about kids who perhaps have never seen a cow—that situation cannot be right.

I know that Unison and other trade unions are supportive of the concept of social tourism. Unison's website states:

"But holidays don't just have an impact on the individual, they also affect wider society. Employers and communities benefit too."

Unison and other trade unions have had their own holiday schemes, albeit often on a fairly small scale, but they are also under financial pressure these days and cannot do all that they would like to do.

Social tourism is an area in which we can learn from other European countries that are very committed to it. For example, France has a voucher system through which employees can purchase vouchers at a subsidised price, with lower-wage staff getting a higher subsidy and higher-wage staff getting less of a subsidy. The vouchers are redeemable in hotels and restaurants throughout France. That is reckoned to help 7 million people to have a holiday or other break that they could not normally afford and, in addition, to pump €3 billion into the French economy. There are similar voucher schemes in Switzerland, Poland, Cyprus, Italy and Hungary.

In Spain, there is a scheme that helps 1.2 million Spanish senior citizens. As well as the direct benefit to recipients, the scheme extends the holiday season in the tourist resorts and therefore stimulates economic activity. The Spanish Government invests about €125 million in the scheme, and it reckons that for every €1 invested, it gets €1.5 in extra tax revenue in return.

My personal experience locally is of the Family Holiday Association, a charity that has provided a fund for the two local schools in Barlanark in my constituency. The fund has been able to support individual families or groups of families who were under pressure and needed a break. I am delighted that in the public gallery we have from Sandaig primary the head and deputy head, Moira McArthur and Linda Burke. Members who came to the drop-in session might have met Linda Burke, who told some of us that they have a school trip coming up within the next couple of weeks and that, for some of the children at the primary school, it will be the first time that they have seen the sea and played on a beach. I find that quite moving.

So, what was my aim in bringing today's debate? First, it was to raise awareness of the topic of social tourism. It is clear from speaking to other members—I believe that this is also true of Westminster members—that they are not hugely familiar with the term "social tourism" and what it means. Although little bits and pieces have been happening on it here and there, there has not been the bigger, joined-up approach that has happened in other countries. I hope that this debate is a small step towards a longer-term agenda of increasing familiarity with the subject.

I hesitate to suggest that we start another cross-party group, as members generally feel that we have enough of them—although the possibility has been suggested to me—but I am interested to hear from the Government and from members speaking on behalf of other parties how they view social tourism and the benefits to individuals and the tourism industry in this country and whether we are open to developing it as a concept in Scotland.

I do not believe that we need to spend a lot of money to make social tourism work. Perhaps it is more a matter of using the resources that we already have, such as the empty hotel bedrooms, in a more joined-up way.

17:10

Margaret McCulloch (Central Scotland) (Lab): I congratulate John Mason on securing the debate and bringing the topic of social tourism to the chamber.

It was on 18 March 1999, just over 14 years ago in his Beveridge lecture, that Tony Blair committed the United Kingdom Government to eradicating child poverty by 2020. Government policy on child poverty has been debated and scrutinised ever since, and progress towards the 2020 target, under successive Administrations at Scottish and UK levels, has not always been consistent with Governments' aspirations. There is a cross-party consensus, however, around the necessity of poverty reduction and social inclusion. Sadly, the pressures of being a carer, raising a sick or disabled child, being ill or disabled oneself and raising a family, being affected by a bereavement, living in damp or poor housing, or experiencing multiple types of deprivation can leave people shut out or feeling left behind.

Here in the Scottish Parliament, we often debate the ways in which Government can make a material difference to families in that position, through taxation, welfare or public spending. There is also increasing recognition of the importance of early intervention and prevention. The evidence tells us that we can prevent illness and disadvantage in later life if we ensure that every child, no matter what their background, has a positive experience of childhood in a healthy and happy family. It is in that context that I stress the value of social tourism and the way in which holidays and leisure activities can bring families together.

Social tourism can act as a form of prevention for older people, too—helping them to socialise and to lead active lives, and minimising the risk of illness in our ageing society, which is placing

demands on the national health service. The growth of social tourism in Europe compared with its low profile in the UK suggests that it is an area in which we have some way to go in developing an infrastructure and good practice.

Social tourism in the UK is largely supported by the voluntary sector, through a range of charities. I know that members across the Parliament all appreciate the work of those charities and the efforts of everyone who gives of their time and money to help to ensure that more families have the chance to enjoy a holiday together. For older people in many communities, churches and faith groups or other voluntary organisations can organise affordable outings and holidays, but they perhaps do not realise the true value of the experience.

We can learn valuable lessons from mainland Europe about how the voluntary sector interacts with the public and private sectors to give social tourism the status that it deserves. There is more that we can do to determine the financial impact of social tourism in terms of what it contributes to the economy and what it saves in public spending on front-line services and the NHS.

Opening up tourism to people who, due to their circumstances, cannot normally afford to travel and finance a holiday could create opportunities for the tourism trade in Scotland and abroad. Affordable out-of-season tourism might not be lucrative, but it could help hotels to fill empty rooms and it could boost footfall at visitor attractions during periods when visitor numbers are low. Not only would that help the industry; it could make a huge difference to the people concerned. It could improve their mental and physical wellbeing, it could strengthen family relationships and it could build happy memories through a positive shared experience.

I once again congratulate John Mason on bringing the debate to the chamber, which has allowed us to raise the profile of social tourism and to discuss how it benefits the most excluded people in society.

17:14

Nigel Don (Angus North and Mearns) (SNP): Saying how grateful we are that a member has brought forward a subject for a member's business debate can be something of a formality in this place, but I am genuinely grateful to John Mason for bringing forward this debate because he has brought to my mind something about which I knew very little—although perhaps slightly more than I originally thought—but which is clearly hugely important. I do not want to copy the contributions of John Mason and Margaret McCulloch. They have set out the general area, and I will add a little bit to that.

We now know that disadvantaged groups gain something from holidays and recreation. We understand that physical and mental health will be improved by such holidays, and we recognise that that is perhaps especially the case for children. The economic benefits to the destinations have also been mentioned.

The literature that we have been given suggests that the proposal that we are discussing is working towards lengthening at both ends the holiday periods for which holiday destinations are able to stay open. That brings a huge economic advantage to absolutely everyone concerned: a longer season means that there is more work for those who are, almost inevitably, seasonal staff; there is a longer period for every business to recover its fixed costs, which makes margins easier to cover; and there is also an incentive for regeneration, as more money goes into a destination's economy in general, giving it a better chance of expanding. I suggest that the economic case for the destination is irrefutable.

Remarkably, as John Mason has said, there seems to be some serious evidence that there is actually some benefit for the Government, too. That is one of the reasons why I imagine that the Government will reflect positively on the proposal. There is serious evidence from the Spanish system that every new euro that is invested brings back €1.50 to the Government. That must gladden the heart of every finance minister and surely suggests that this is one of the best possible investments for the Government, never mind the very clear social benefits that have already been mentioned.

The recent report "Poverty and Social Exclusion in the United Kingdom", which was funded by the Economic and Social Research Council, says that more than 30 million people—almost half the population—suffer from some form of financial insecurity; that almost 18 million people in the United Kingdom today cannot afford adequate housing conditions; that 5.5 million adults go without essential clothing; and that almost 4 million children go without at least two of the things that they need. If those figures are even remotely right, is it any surprise that holidays are too far down the list of important things for people to be able to afford them?

As John Mason said, we instinctively know that holidays are a good thing. Why else do we go on them? However, I am grateful that there is some academic research on this—that always helps. I was particularly struck by research that was done by the University of Nottingham's business school, involving work by John McCabe and Sarah Johnson on quality of life and social wellbeing. It

was interesting to read the numbers that they came up with, which showed measurable improvements in family life, social life, family time and wellbeing, which are hugely important areas in which Governments struggle to bring about improvements. For the self-selecting group of people whom we really want to help, we can see a model that is at least financially neutral from the Government's point of view. Surely that is something that we all want to support.

17:18

Mary Scanlon (Highlands and Islands) (Con): I thank John Mason for bringing the debate to the chamber and the issue of social tourism to the attention of a much wider audience. I am not aware of any debate on social tourism in the Parliament since 1999, so this could be a first. In fact, the honest truth is that, until I did some research for the debate, I was not very aware of what social tourism was. I do not think that I was the only one—I noticed that Paul Maynard MP, the Conservative chair of Westminster's all-party parliamentary group on social tourism, said:

"Twelve months ago I had never heard of 'social tourism'."

There is a constant awareness of the economic value of tourism, but much less awareness of its social value, particularly in relation to people on low incomes, those who are dealing with mental or physical impairment or those who are experiencing other disadvantage in relation to holiday and leisure activities.

Research from the University of Nottingham concludes that:

"Whilst indicators and measures of mental and physical health, happiness and quality of life have evolved over recent years, the extent to which such measures have been applied to tourists ... is limited and, until now, to the beneficiaries of social tourism not at all."

However, along with other academic research, an evidence base is being established, as other members have said. I particularly noticed the University of Westminster research that concluded that the family holiday can

"improve the outlook on life: it shows that even in difficult circumstances, good things can happen. This may lead to renewed courage and a more pro-active attitude to life ... some started a course after the holiday, gave up smoking or anti-depressants, started visiting their social support organisation more often or changed jobs."

The University of Nottingham research focused on information that came from application forms for the holidays and a follow-up questionnaire, and it was clear that all the family are equally affected by circumstances, children as well as adults. The perceived benefits were:

"The chance to spend quality time together as a family ... The opportunity to spend time away from stressful routines"

and

"The opportunity for fun and happy memories".

The findings concluded that although a holiday is not a remedy for medical conditions, it might contribute to a self-assessment of good health. The results also showed that families who are in debt perceived fewer of the benefits such as "fun and happy memories", which pointed to their difficulty in seeing beyond their current circumstances and looking for ways out of debt.

I highlight two of the recommendations of the House of Commons all-party parliamentary group's report because I see no reason why they cannot be adopted in our Parliament. They are:

"building on existing research for a deeper understanding of the long-term benefits that social tourism can bring to individuals, families and society"

and

"to explore how various departments can support the concept in an integrated way."

I hope that at least those two recommendations can be adopted. Given the clear improvements in mental health and wellbeing alongside increasing confidence and social networks, I certainly support centres such as the Badaguish outdoor centre, which is hugely valued by many individuals and families across the Highlands.

Again, I thank John Mason for putting social tourism on our agenda and helping us to focus on the social, health and wellbeing benefits rather than the usual statistics about visitor numbers, the amount of tourist spend and bed nights. I hope that, as well as cold statistics, wellbeing will continue to be integrated into economic measures. After all, economics is a social science, not a pure science.

17:23

Richard Lyle (Central Scotland) (SNP): I thank John Mason for securing the debate. As my good friend Mary Scanlon has already said, it is a first for the Scottish Parliament.

Social tourism can mean many things to many people, but its core principle is that people who come from low-income families should have the opportunity to access holidays and experience leisure activities. However, for some, even the simplest of day trips is beyond reach. According to the Family Holiday Association, an estimated 2.5 million families cannot even afford a day trip, as John Mason has already said. Financial difficulties in tough economic times coupled with family breakdown and work pressures sometimes prevent families across the country from accessing

holidays and leisure activities. In turn, that prevents them from reaping the benefits of a holiday.

A number of welfare benefits can be reaped, such as better mental, physical and emotional wellbeing, giving families the chance to feel rejuvenated through having a break that is free from stress or worry. There is also a lot to be said for the wider educational and cultural benefits to those who take a break or a holiday through learning about the culture and traditions of other nations, which is an enriching experience for all.

I recall a scheme that was run by what was then Strathclyde Regional Council, which referred people through the social work department to experience a family caravanning holiday in various locations across the country. Such examples have helped to ensure that many people who are on a low income get the chance to have a family holiday. It is a very important opportunity and a scheme that I would like to see more local authorities and organisations roll out.

Social tourism also carries with it significant economic benefits to tourism and associated industries by making use of facilities that would not otherwise be used during the off-peak season. Many examples that provide evidence of the success that social tourism can bring can be found throughout Europe. The IMSERSO scheme has helped to employ thousands of people while bringing in billions of euros.

There are a number of good examples of work that is being done to promote social tourism in Scotland, for example by the Family Holiday Association, an organisation that I had the pleasure of meeting earlier, which is working in partnership with companies such as Thomson and Canvas Holidays as well as with charities such as the Family Fund.

Those organisations are working to champion social tourism and to increase opportunities for those from low-income families who face a number of barriers. In particular, I welcome the work done by Thomson and First Choice in collecting an average of £2 million per annum from donations on board flights as well as staff fundraisers, and I thank the people involved for their hard work and generosity. I encourage other travel firms and airlines to get involved because Thomson and First Choice have shown what can be done when such companies set their minds to it.

Over a number of years, several companies have run low-cost holiday breaks for families—I support that and ask others to take up that worthy cause. Through newspapers, people can obtain a voucher for a holiday at a cost of sometimes perhaps only £9 or £10. Many parents and their children deserve a break. I support the motion and again thank John Mason for bringing it to Parliament.

17:27

Sandra White (Glasgow Kelvin) (SNP): I am not a late convert, but a late addition to the debate. I had said that I would listen to the debate, but I was so moved by the evidence at the meeting earlier that I had to make a contribution.

Many years ago, in a past life, I ran voluntary organisations and in the summer I used to run a play scheme. As John Mason said, some kids that we took on the play scheme had never been on the subway and had never been on a train. I will not tell members exactly what happened when I got them to Kelvingrove art gallery and they saw the fountain there with the money in it; members can imagine what they tried to do. Those kids had never been outside that small place that they were born and brought up in.

When I was talking to Liz Buchanan and others at the meeting this afternoon, in particular some of the teachers from Sandaig primary, I was reminded of the fact that in some inner cities—in particular in Glasgow, but it probably happens all over—there is a territorial issue. Kids will not cross the road to go to another area, so therefore they perhaps do not see the sea or the grass because they are confined to that particular area. It is rather sad.

This holiday idea gets the kids completely out of such areas, and some of the examples that have been produced show how good it has been for the kids to be able to break away from what happens in their lives—the poverty, domestic violence in some cases, and other issues; for example, when someone in the family has passed away. It is absolutely fantastic to be able to offer—not just to the kids, but to their families—the opportunity to get away for a complete break.

Mary Scanlon and other members mentioned that such breaks help with mental health, which they do. I know how I feel when I have been able to go for a break, but it is wonderful for families who cannot get away at all, because they do not have the money, to be given that opportunity.

I congratulate John Mason for lodging the motion. As others have said, I had heard a little bit about the topic but not an awful lot. I hope that we will hear even more about it.

I will touch on two other areas. In addition to the recommendations that Mary Scanlon highlighted, I want to mention first the recommendation on the European Commission's Calypso programme on social tourism. We are told that participation in the programme costs nothing, so I hope that the

minister can look at that. As John Mason and others said, social tourism can help to boost the economy because it puts money into the economy and because those who work in the sector can be employed for longer. We should also remember—in case anyone from the press takes the wrong idea—that the proposal is about giving people holidays in their own country and not abroad, which makes it even better.

Secondly, given the recommendation about providing disadvantaged families with free tickets for venues in the 2012 Olympics and Paralympics, perhaps the minister could speak to his colleague Shona Robison on whether we could do something like that for the Commonwealth games. That could kick-start this idea of social holidays.

Again, I am grateful to John Mason for bringing the issue to the attention of the Parliament. I certainly look forward to seeing how far we can go with the concept of social holidays.

17:31

The Minister for Energy, Enterprise and Tourism (Fergus Ewing): I begin by thanking John Mason, as all other members have done this evening, for introducing this important topic to the Scottish Parliament. To wait 14 years after the Parliament was reconvened before we raised the issue has perhaps been too long, so we are grateful to John Mason for lodging an important motion for debate.

As a breed, MSPs and MPs—perhaps contrary to public perception—tend to be, at least from my observance, work obsessed, driven, occasionally fanatical, and connected almost surgically to their iPads, so I am not sure that we are the best advert for the pursuit of holiday taking in general. However, perhaps we are wrong and the rest of society is correct. I see one member brandishing her iPad; I do not know whether that is a legal possession in the chamber, so I will not tell on her.

More seriously, the matter of providing what we take for granted to people on low incomes, who cannot afford what we take for granted, is at the kernel of the debate. As John Mason presented with typical clarity, that really is the objective of social tourism, although it also boosts tourism. Nigel Don focused on exactly how that can be done in practice.

Many members, including Mary Scanlon, gave examples of the magnificent effort that is made by a huge range of companies, organisations, charities, third sector bodies and individuals, who do a tremendous amount. Regarding Badaguish, which Mary Scanlon mentioned, I well know that Andrew and Silvie MacKenzie have devoted their lives to the issue. I remember their telling me once how a blind child heard running water for the first time when he was able to put his ear to the water in a burn near Badaguish in Strathspey, which is a beautiful part of Scotland close to my home.

I could give many more examples of the largely unsung effort that is, and always has been, carried out in Scotland by a huge range of bodies. I have a list here of charities and organisations that are involved in the better breaks fund for disabled children and young people. They include the Scottish Spina Bifida Association, Enable Scotland, the MEAD—minority ethnic access development—project and the Aberlour Child Care Trust. It is perhaps invidious to mention just a few, because the list includes about 40 organisations. That goes to show what a tremendous amount of work is being done for children, as Margaret McCulloch mentioned. That work is extremely important, and we thank all those bodies and organisations for the huge amount of work that they do.

It is easy to forget how isolating it is for a parent who needs—24 hours a day, seven days a week—to look after a child who has a severe disability. That sense of isolation is acute, as we all know from the work that we do. Therefore, the importance of a holiday—a chance to get away from that routine, which can be the cause of depression and difficulty—is even greater for them than it is for others. As others have pointed out, that is not simply a luxury.

Of course, a terrific amount has been done with the support of charities. The Scottish Government has provided a reasonable amount of financial investment—£13 million between 2010 and 2015—for the short breaks fund. A large part of that is to support short breaks for disabled children and young people up to the age of 20 and their families. The investment is divided between two grant-making programmes: Shared Care Scotland's better breaks programme and the Family Fund's take a break programme. To date, more than 9,000 children and their families have benefited from that resource and from the work of the many charities to which I have alluded.

We have provided core funding to Shared Care Scotland, which works to improve the quality, choice and availability of short-break provision across Scotland for the benefit of carers and the people for whom they care. I had the pleasure of meeting John McDonald and Tom Pilgrim, who I think are in the public gallery, and who with others have taken the trouble to come to Parliament today to educate members and explain their work. The Family Holiday Association, which arranges holidays for people who cannot afford them, believes that 7 million people in the UK miss out on a basic holiday through poverty and that 2.5 million children live in families that are too poor to afford a day trip. The FHA strongly believes that

even short breaks can contribute to stronger, healthier and happier families. Many members alluded to that and expanded on it in their speeches. We want to build on that work.

Reference has also been made to the work that is done in other countries, which to an extent puts us to shame, although they operate in different ways. France has the chèque-vacances, which can be used towards the cost of rail, sea and air travel as well as more than 135,000 leisure facilities. The holiday voucher system, to which Dick Lyle referred, involved €1.4 billion in 2012. In Spain, 1.2 million Spanish senior citizens have access to an off-peak break at a Spanish seaside resort. In Flanders, it is a condition of registering with the tourist board that holiday businesses provide free or discounted holiday nights, which are then made available to social organisations to help disadvantaged families to access a break from their home.

We in Scotland want to learn from what other countries do, and we can do more. Sandra White asked what we are doing in relation to specific events. I am pleased to say that, for the year of natural Scotland, we have had the big April adventures scheme, through which 15,000 people enjoyed free travel during April, enabling them to travel around Scotland courtesy of Caledonian MacBrayne and ScotRail. Stagecoach has offered £5,000 of money-off vouchers.

I also refer to the free bus travel scheme for the over-60s, which enables many people to travel throughout Scotland. The extent to which the scheme enables people to do things that they would otherwise not do is perhaps not widely appreciated. It allows people to get out and about, to travel to other parts of Scotland, to visit friends or to have a short break. I do not think that the benefits of the scheme have been computed. Equally, free visits to visitor attractions in Scotland outnumber paid visits by a factor of about three to one, with 34 million free admissions in 2012 compared to 13.6 million paid visits. We are doing some things, although perhaps we can do more.

I conclude by returning to John Mason's central tenet that the "more" that we should be doing should be directed specifically towards families on low incomes, children, people who have disabilities, and especially towards those who have not had a chance in life to have a holiday or a break and to have what the rest of us take for granted.

We therefore look forward to working with the Family Fund, the Family Holiday Association, all the charities that I mentioned and others to do more in Scotland for social tourism.

Meeting closed at 17:39.

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