

# **MEETING OF THE PARLIAMENT**

Thursday 20 February 2003

Session 1

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# CONTENTS

Thursday 20 February 2003

## Debates

	<b>Col.</b>
<b>BUSINESS MOTIONS</b> .....	15481
<i>Motions moved—[Patricia Ferguson]—and agreed to.</i>	
<b>CRIMINAL JUSTICE (SCOTLAND) BILL: STAGE 3</b> .....	15483
<b>CRIMINAL JUSTICE (SCOTLAND) BILL</b> .....	15530
<i>Motion moved—[Mr Jim Wallace].</i>	
The Deputy First Minister and Minister for Justice (Mr Jim Wallace) .....	15530
Roseanna Cunningham (Perth) (SNP) .....	15531
Bill Aitken (Glasgow) (Con) .....	15532
Pauline McNeill (Glasgow Kelvin) (Lab) .....	15534
Mr Duncan Hamilton (Highlands and Islands) (SNP) .....	15535
Johann Lamont (Glasgow Pollok) (Lab) .....	15535
Lord James Douglas-Hamilton (Lothians) (Con) .....	15537
George Lyon (Argyll and Bute) (LD) .....	15537
Dr Richard Simpson (Ochil) (Lab) .....	15538
Irene McGugan (North-East Scotland) (SNP) .....	15540
Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab).....	15541
The Deputy Minister for Justice (Hugh Henry) .....	15541
<b>BUILDING (SCOTLAND) BILL: STAGE 3</b> .....	15544
<b>PRESIDING OFFICER'S RULING</b> .....	15556
<b>QUESTION TIME</b> .....	15557
<b>FIRST MINISTER'S QUESTION TIME</b> .....	15574
<b>BUILDING (SCOTLAND) BILL: STAGE 3</b> .....	15584
<b>BUILDING (SCOTLAND) BILL</b> .....	15590
<i>Motion moved—[Des McNulty].</i>	
The Deputy Minister for Social Justice (Des McNulty) .....	15590
Linda Fabiani (Central Scotland) (SNP) .....	15594
John Scott (Ayr) (Con) .....	15594
Nora Radcliffe (Gordon) (LD) .....	15595
Bristow Muldoon (Livingston) (Lab).....	15596
Robin Harper (Lothians) (Green).....	15597
The Minister for Social Justice (Ms Margaret Curran).....	15598
<b>PARLIAMENTARY BUREAU MOTION</b> .....	15600
<i>Motion moved—[Euan Robson].</i>	
<b>MOTION WITHOUT NOTICE</b> .....	15601
<i>Motion moved—[Euan Robson].</i>	
<b>DECISION TIME</b> .....	15602
<b>ARBROATH CAFE PROJECT</b> .....	15606
<i>Motion debated—[ Mr Andrew Welsh].</i>	
Mr Andrew Welsh (Angus) (SNP).....	15606
Mr Keith Raffan (Mid Scotland and Fife) (LD) .....	15608
Alex Johnstone (North-East Scotland) (Con) .....	15610
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD).....	15611
Irene McGugan (North-East Scotland) (SNP) .....	15612
Donald Gorrie (Central Scotland) (LD) .....	15613
The Deputy Minister for Social Justice (Des McNulty) .....	15615

## Oral Answers

Col.

### QUESTION TIME

<b>SCOTTISH EXECUTIVE</b> .....	15557
Access Routes.....	15560
Aquaculture.....	15559
Castle Tioram .....	15557
Delayed Discharge .....	15569
Executive Agencies and Non-departmental Public Bodies (Relocation).....	15564
National Health Service (Treatment in Other Countries).....	15570
Olympic Bid.....	15561
Rail Services (Bathgate to Airdrie) .....	15572
Roads Review.....	15571
Schools (Healthy Living) .....	15562
Social Inclusion Partnerships .....	15565
Taxi Fares (Non-payment).....	15557
Voluntary Sector Support (Guidance) .....	15567
<b>FIRST MINISTER'S QUESTION TIME</b> .....	15574
Cabinet (Meetings) .....	15574
Community Pharmacies .....	15581
Congestion Charging.....	15579
Prime Minister (Meetings).....	15575
Transport (Highlands and Islands) .....	15579

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## Scottish Parliament

Thursday 20 February 2003

[THE DEPUTY PRESIDING OFFICER *opened the meeting at 09:30*]

### Business Motions

**The Deputy Presiding Officer (Mr George Reid):** The first item of business is consideration of business motion S1M-3921, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau.

*Motion moved,*

That the Parliament agrees—

(a) the following programme of business—

Wednesday 26 February 2003

9:30 am Time for Reflection  
*followed by* Parliamentary Bureau Motions  
*followed by* Scottish Conservative and Unionist Party Business

11:00 am Executive Debate on Educational Attainment of Looked After Children

2:00 pm Stage 3 of Title Conditions (Scotland) Bill  
*followed by* Parliamentary Bureau Motions

5:00 pm Decision Time  
*followed by* Members' Business - debate on the subject of S1M-3898 Dr Richard Simpson: New Forth Road Bridge Crossing Near Kincardine

Thursday 27 February 2003

9:30 am Preliminary Stage Debate on National Galleries of Scotland Bill  
*followed by* Stage 1 Debate on Prostitution Tolerance Zones (Scotland) Bill  
*followed by* Business Motion

2:30 pm Question Time

3:10 pm First Minister's Question Time

3:30 pm Executive Debate on the European Year of the Disabled  
*followed by* Parliamentary Bureau Motions

5:00 pm Decision Time  
*followed by* Members' Business

Wednesday 5 March 2003

9:30 am Time for Reflection  
*followed by* Parliamentary Bureau Motions  
*followed by* Executive Business

2:00 pm Parliamentary Bureau Motions

*followed by* Stage 3 of Homelessness (Scotland) Bill

5:00 pm Decision Time

*followed by* Members' Business

Thursday 6 March 2003

9:30 am Scottish Conservative and Unionist Party Business

*followed by* Business Motion

2:30 pm Question Time

3:10 pm First Minister's Question Time

3:30 pm Executive Business

*followed by* Parliamentary Bureau Motions

5:00 pm Decision Time

*followed by* Members' Business

and (b) that the Justice 1 Committee reports to the Justice 2 Committee by 4 March 2003 on the draft General Commissioners of Income Tax (Expenses) (Scotland) Regulations 2003 and that the Justice 2 Committee reports to the Justice 1 Committee by 4 March 2003 on the draft Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003.—[*Patricia Ferguson.*]

*Motion agreed to.*

**The Deputy Presiding Officer:** The next item of business is consideration of business motion S1M-3927, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau. The motion sets out a timetable for stage 3 consideration of the Criminal Justice (Scotland) Bill and the Building (Scotland) Bill and is printed in section F of the business bulletin.

*Motion moved,*

That the Parliament agrees that, during today's Stage 3 proceedings on the Criminal Justice (Scotland) Bill and the Building (Scotland) Bill, debate on each part of those proceedings shall be brought to a conclusion by the time-limits indicated (each time-limit being calculated from when today's Stage 3 proceedings on the Criminal Justice (Scotland) Bill begin and excluding any periods when other business is under consideration or when the meeting of the Parliament is suspended)—

#### Criminal Justice (Scotland) Bill

Groups 22 and 23 - no later than 40 minutes

Groups 24 to 30 - no later than 1 hour 45 minutes

Motion to pass the Bill - no later than 2 hours 15 minutes

#### Building (Scotland) Bill

Groups 1 to 5 - no later than 3 hours 10 minutes

Groups 6 to 12 - no later than 4 hours 10 minutes

Motion to pass the Bill - 4 hours 40 minutes—[*Patricia Ferguson.*]

*Motion agreed to.*

## Criminal Justice (Scotland) Bill: Stage 3

*Resumed debate.*

09:32

**The Deputy Presiding Officer (Mr George Reid):** We now continue with consideration of stage 3 amendments to the Criminal Justice (Scotland) Bill. Members should refer to the bill, the second marshalled list, which contains all the amendments selected for today's debate, and today's groupings list.

I will allow an extended voting period of two minutes for the first division following the debate on the first group of amendments. Thereafter, a voting period of one minute will be allowed for the first division after the debate on a group. All other divisions will be 30 seconds.

### Section 61—Police custody and security officers

**The Deputy Presiding Officer:** Amendment 71 is grouped with amendments 72, 73 and 100 to 107.

**The Deputy Minister for Justice (Hugh Henry):** I will start with amendments 71 to 73. It was unfortunate that the power to enable police authorities to contract out the provision of certain services, mainly in police stations, was removed by amendment at stage 2. The order of stage 2 business meant that we did not have the opportunity to demonstrate that we had accepted members' concerns about the impact of our proposals in court premises and that we would have supported an amendment to remove the power to contract out in relation to the provision of police custody and security officer functions in court premises.

As a result, the bill as it now stands precludes contracting out completely. It would be unfortunate if we left it that way. In particular, we would be ignoring the recommendations made by Her Majesty's inspectorate of constabulary and representations from chief constables.

Although we accept that there is a case against contracting out court functions that are undertaken by the police service, I have heard no strong arguments against giving police authorities the option to contract out turnkey and escorting duties. We have never said that police authorities must contract out anything. However, as responsible bodies with budgets that will exceed £900 million next year and a duty to deliver best value, they must at least be given the tools to do the job. Amendments 71 to 73 will provide a balanced and reasonable position on contracting out PCSO services.

Amendments 71 and 72 will restore the power of police authorities to contract out the provision of PCSO services, but amendment 73 will rule out the use of PCSOs—other than those employed by a police force—in court premises. As a result, only PCSOs employed directly by the police authority could fulfil the duties and provide PCSO services in and around court buildings. I firmly believe that the amendments will achieve our aims of effective service delivery and best use of resources without compromising safety and court order.

Amendments 100 to 103 relate to the training to be provided to PCSOs. Throughout consideration of section 61, we have made it clear that PCSOs will be fully and professionally trained to deal with the circumstances in which they will be operating. Jim Wallace set out the position in a letter to the convener of the Justice 2 Committee on 3 December. In a letter to the committee on 9 December, the honourable secretary of the Association of Chief Police Officers in Scotland and the chief constable of Strathclyde police subsequently confirmed that appropriate job-specific training would be provided to PCSOs.

The Scottish police service already operates to very high standards. The police have given assurances that the high professional standards that apply in training for police duties generally will apply equally to PCSO services. I believe that that is satisfactory. I also strongly resist any measure to regulate for the level and standards of training carried out by police forces. That is an operational matter for chief constables and should remain so. It would be wholly inappropriate to make an exception for PCSOs. The tripartite basis on which policing in Scotland operates sets out clear roles for Scottish ministers, for police authorities and for chief constables. It would be wrong for the Parliament to consider legislation that cuts across that long-standing position.

Amendment 104 relates to contractual arrangements with third parties for PCSO services. The police already have arrangements to ensure that appropriate contract monitoring takes place for services provided by third parties. From 1 April 2003, every local authority, including police authorities, will have a duty under the Local Government in Scotland Act 2003 to secure best value for the functions that they discharge. The new duty requires the authority to maintain an appropriate balance between the quality of the performance of its functions and the cost to the authority of that performance. It is for chief constables and others within the police authority to ensure that those requirements are met.

That will include arrangements with a third-party provider on the handling of complaints and disciplinary matters. As a result, any police authority that seeks to secure PCSO services from

a third party should have robust contract compliance and monitoring arrangements in place to ensure a high-quality, professional standard of service and to represent best value for public expenditure. I therefore see no good reason to require third parties to provide reports to ministers or the Parliament on what is rightly the responsibility of the police.

Amendments 105 and 106 relate to the duties of Her Majesty's inspectorate of constabulary. With regard to amendment 105, HMIC already has a duty, if directed, to visit and inquire into any general matter concerning a police force. HMIC currently inspects all aspects of a force, including officers and support staff. It will therefore inspect the use of PCSOs as a matter of course. The law does not need to be amended to achieve the intention behind amendment 105. Amendment 105 is therefore unnecessary.

Amendment 106 is also inappropriate. The Scottish ministers have already given a firm commitment to propose measures to regulate the private security industry. The authority established to undertake that role would be the appropriate body to inspect private sector organisations involved in the provision of PCSO services. That body could in any case consult HMIC.

I assume that the intention underlying amendment 107 is to ensure that a contractor who enters into a contract with a police authority to provide PCSO services is subject to the requirements of the Freedom of Information (Scotland) Act 2002. Section 5 of that act already provides for the Scottish ministers to make an order in respect of relevant services provided by a person under a contract with a Scottish public authority if it is considered appropriate to make such an order. We will consider that as and when appropriate. Amendment 107 is therefore unnecessary.

I move amendment 71.

**Roseanna Cunningham (Perth) (SNP):** It is not the Scottish National Party's intention to support amendments 71 to 73. Those amendments seek to reverse a change that was made at stage 2 and that we believe was appropriate. The change was supported by the convener of the Justice 2 Committee, Pauline McNeill, and by the deputy convener, Bill Aitken, which shows the extent of cross-party concern about the general issue. At stage 2, Pauline McNeill and Bill Aitken both voted to ensure that PCSOs would be under the direct control of the chief constable.

The SNP is conditionally in favour of chief constables having the power to employ civilians to guard courts and to move prisoners around, if the chief constable believes that that is an appropriate use of the funds at his disposal and if it frees up police officers for other duties.

However, concerns have been raised and they must be addressed. The Scottish Police Federation was concerned that PCSOs would have to be paid for out of the police budget. That would mean that the number of police officers available for other duties would be reduced, which would give chief constables less flexibility. Furthermore, sheriffs expressed concerns about safety in courts if no police officers were present.

The proposed transfer of powers from the police to civilians is substantial and includes the right to deprive a member of the public of their liberty and to use force to do so. As has been pointed out, the police are trained carefully in the use of force and there is concern that PCSOs should be trained to the same standards. The Scottish Police Federation also questioned whether the employment of PCSOs would lead to any savings. It is important that the Parliament should have assurances from the minister on those matters, but I am not sure that what he has said so far gives those assurances.

As I said, the SNP opposes the contracting out of PCSOs. The fact that there was broad cross-party support at stage 2 shows that there is wide concern about whether that role should be privatised. If police powers to search and restrain prisoners and to keep people in custody are to be transferred to civilians, it is appropriate that there should be a sufficient guarantee of the training and proper behaviour of those civilians. Civilians who are employed directly by a chief constable are accountable to the police board and to HMIC. Private security forces are not.

I will talk briefly about our amendments 100 to 107, which deal with some of the problems of accountability in private security forces. Generally, the amendments would introduce basic standards for the training of PCSOs, require PCSOs and the companies that employ them to be open to inspection by HMIC, require the companies to report on misconduct by their officers and ensure openness by bringing the companies under the Freedom of Information (Scotland) Act 2002. Without the guarantees, the contracting out of PCSOs is flawed. I know that the minister addressed one or two of the issues in his opening remarks and I will deal with what he said as we go through.

I am a little puzzled by amendment 73. I would be interested to hear more detail about it from the minister, because it appears to be almost contrary to the whole idea of contracting out. I am not quite sure where it fits within the general parameters of the way in which the minister is proceeding. The amendment almost suggests that there will be two categories of PCSOs—the truly contracted-out ones who will deliver the prisoner to the court building and the civilian security officers who are

employed by the chief constable in the court building, presumably to take delivery of the prisoner. There now seem to be two, almost separate categories of civilian officer. That is strange, but it is certainly better that the handover at least is to people who are under the direct control of the chief constable.

Amendments 100 and 101 are about training and are fairly self-explanatory. The officers should be trained in searching—that must be clear and up front from the start. They should also be trained in the use of handcuffs and other means of restraint—that, too, should be clear and up front. I have referred to some of the concerns that were expressed on the issue at stage 2. I do not understand why the minister is so against amendments 100 and 101. I suspect that ultimately we will have a group of people involved in restraint who are not trained to the same level as the police.

Amendments 102 and 103 are also about training. I want to hear rather more from the minister than the bland assurances that he gave about the basic standards that will be required of the officers. We are moving into a situation where we will have a two and even three-tier system of security officers. Although it is important that we free up properly trained police officers to do as many of the jobs as possible that they are required to do, it is equally important that the people who are involved in control and restraint in particular are trained to the same standards.

Amendment 104 would require private providers of PCSOs to give an annual report on numbers, salaries, staff turnover, complaints against officers and disciplinary offences committed by officers. Individual police forces report on those matters in their annual reports and are scrutinised by HMIC. It is in the public interest that that information should be made available so that people know how their public services are performing. I am afraid that, with privatisation, those matters have a way of becoming secret, especially if the figures look embarrassing. One only has to examine the experience with Kilmarnock prison, where staff turnover, staff numbers, grievance procedures and bullying are all matters of secrecy. The fragmentation and privatisation of the justice system means that public accountability tends to be lost. Amendment 104 is an attempt to stem that tide.

09:45

Amendment 105 would make those PCSOs who are employed by private companies subject to inspection by HMIC. I think that I heard the minister give an assurance that that would be the case. If that assurance is repeated at the close of the debate, I will reconsider pressing amendment

105, but I seek a categoric assurance that privately employed PCSOs will be subject to inspection in the same way as the police force is.

On amendment 106, I think that I heard the minister making a commitment in respect of inspections. Once again, if I hear categoric assurances at the end of the debate, I will not press amendment 106 but, at the moment, I am not sure whether the assurance has been categoric.

I regard amendment 107 in the same way. The amendment would make private companies that employ PCSOs subject to the Freedom of Information (Scotland) Act 2002 as public authorities. If ministers do not wish to accept amendment 107, I will be looking for something cast iron from the minister that the Scottish ministers will use their powers under section 5 of the Freedom of Information (Scotland) Act 2002 to designate the private providers of PCSOs as public authorities.

During the passage of the bill, we have repeatedly sought assurances that that would be done. I know that the Minister for Justice said:

“Major private sector suppliers of public services—such as those involved in Her Majesty’s Prison Kilmarnock—should, arguably, be candidates for designation under the bill ... It is our intent that that provision will be used to bring within the scope of freedom of information legislation private companies that are involved in significant public work, such as private companies that are involved in major PFI contracts.”—[*Official Report, Justice 1 Committee*, 5 February 2002; c 3162-64.]

I want a categoric assurance today that the PCSO companies will be made subject to the powers under section 5 of the Freedom of Information (Scotland) Act 2002. If I get that categoric assurance, I will not press amendment 107.

**Bill Aitken (Glasgow) (Con):** This is another part of the bill that has proved problematic, with members holding differing views irrespective of party affiliations. The wishes of the Executive are perfectly understandable—it rightly seeks to free up police officers for more active duties and recognises that there is a potential cost saving in using civilians to carry out some duties that are normally carried out by police officers. However, there are a number of contrary arguments, relating to the fact that the experience down south has not been a universal success and recognising that courts are, in the normal course of events, fraught places where there is always a potential for difficulty—the suggestion that such difficulties are less likely where there is a police presence is a credible view.

From personal observation, I must comment that many of the officers who at present perform police court duties tend to be, through no fault of their own, less likely to be effective in general



operational duties. There is a strong possibility that, were the Executive's provisions to be introduced on a blanket basis, many of those officers would have to be retired early on health grounds, with a consequent effect on the police pension fund and a reduction in the saving that the Executive seeks to make.

Once again, on a fine balance we are prepared to go along with the proposals. However, we feel that there is a lack of clarity in amendment 73, which we ask the minister to deal with more fully when he sums up. The determining factor for us is that, although civilianisation to such a degree will be an option open to chief constables, it will not be incumbent on them. We go along with the proposal on the clear understanding that chief constables will not be pressured by the justice department to go along the route that the bill proposes and that they can make their decisions with unfettered discretion, as opposed to under Scottish Executive influence.

On that basis, we find Roseanna Cunningham's amendments 100 to 103 to be largely too restrictive. We expect chief constables to ensure that the necessary training is given to custody officers and we see no need to legislate on that.

Conversely, we see merit in amendment 104 and related amendments 105 to 107. If the exercise is to be undertaken, it is only appropriate to have an inspection and reporting mechanism. Amendments 104 to 107 would create that. We will finalise our viewpoint after we have heard the minister's clarification, but the amendments have merit and my inclination is to support them.

**Pauline McNeill (Glasgow Kelvin) (Lab):** It is fair to say that the Justice 2 Committee had many concerns about the provisions. Roseanna Cunningham was correct: the committee did much cross-party work to deal with those concerns. Duncan Hamilton and I spent many weeks questioning the Executive on the need for the policy, which would give chief constables the power to create, if they so wished, a different balance in our courts between police officers and a new breed of officers—police custody and security officers.

As I understand the matter, the Executive's original position was that chief constables would have the power to contract out the service, but the committee convinced the Executive that that should not happen and that any chief constables who civilianised the role of police officers to free up officers for front-line duties should do so only in so far as the civilian officers were managed by the police. I feel strongly about that. I have much faith in our police force and in its ability to train and discipline a civilian force. We will pass serious powers to PCSOs. In our courts, they will have the powers to restrain individuals and to apprehend people who cause difficulties.

It is fair to say that many people who work in our criminal courts—not least High Court judges and procurators fiscal—are concerned about getting the balance right in our courts. Some reassurances on that are due from the Executive. I accept that the number of police officers in our courts is an operational matter for chief constables to decide, but Parliament expects that, when or if PCSOs are employed, a proper balance will be struck and a sizeable police presence will remain. In Glasgow sheriff court, for example, a police presence is needed to deal with criminals and other people.

At stage 2, the Justice 2 Committee said that it would be concerned about further contracting out. Before we go any further, we must be clear that the Executive's amendments will not put out to tender the role of police custody and security officers; the PCSOs will form a civilian force. However, I would still like assurances about our expectations of our chief constables to ensure that the right balance is struck. Training must be considered at a future date, so that we are satisfied that the powers are correct.

It is reasonable for the Parliament to seek assurances before we close the matter. If the objective is to free up police officers for the front line, the Parliament will expect to see the evidence that those officers are serving on the front line, because that is the policy objective. It would be useful if the Executive gave us some idea of where we will end up if its amendments are agreed to.

**George Lyon (Argyll and Bute) (LD):** As Pauline McNeill said, the Justice 2 Committee was concerned about the possibility that no police officers would be on duty in our courts. The concern was that, if the bill as introduced was passed, security in courts would be put at risk. It was interesting to note the evidence to the committee from the Scottish Police Federation, which said that officers who were allocated to court duty might be unfit for front-line duties. That rather undermined the argument that the changeover to contracting out would reduce security in court.

At stage 2, the committee reached consensus, although there was some confusion about what was being voted on. Executive amendments 71 to 73 allay the fundamental concern, which was about security in our courthouses, so I support them. However, like Pauline McNeill, I realise that discretion will be given to the chief constable, who will decide how he uses the officers whom section 61 frees up. I hope that the minister will guarantee to the chamber that officers who are freed up as a result of the provision will undertake front-line policing and that more police will be on our streets. That is the purpose behind the provision, which we

all support, and we would like ministers to guarantee that that will happen.

**Mr Duncan Hamilton (Highlands and Islands) (SNP):** As Pauline McNeill said, several members of the Justice 2 Committee—including her and me—lodged stage 2 amendments to remove the option of contracting out. It is important that the minister should be aware that the amendment to which the committee agreed was passed unanimously. The committee took the view that, not only in courts, but in principle, it had a problem with the passing to civilians of important powers without the necessary safeguards of training or disciplinary procedures.

Amendment 73 seems to show confusion about the difference between opposition to the principle and the special exemption for the court—although we are not really talking about an exemption for the court, as it remains possible for civilians to fulfil the role, albeit in a slightly different capacity. The amendment does not allay the committee's concerns. As the Scottish Police Federation said, the one place in which we are guaranteed to have a collection of criminals and stress is the courtroom. Of all the places where we want reinforcement, surely to goodness the courtroom is where we want the advantage of trained police officers in uniform to reinforce the dignity of the court and the requirement for reasonable and respectful behaviour. That is eminently sensible.

Today, as at stage 2, the financial aspects have been mentioned. The committee could not conclude whether cost savings would be made. Neither the Executive nor any other witnesses assured us that savings would be made. When the Scottish Police Federation was asked about that, it said:

"When the expected salaries for the post, training costs, equipment and the loss of flexibility currently offered by police officers are considered, it is questionable if the introduction of such a scheme would stand financial scrutiny in terms of best value."

Does the Executive oppose Roseanna Cunningham's amendments, which would provide for that training, because it wants to cut costs rather than to provide the best service? If so, that is truly lamentable.

I acknowledge that the Executive has moved some way towards the Justice 2 Committee's viewpoint, but I ask it to reconsider, even at this late stage, the principle of civilians taking on duties that should properly be undertaken by police officers or at least by those who are under the chief constable's direction. The courts—and the ancillary duties of taking people to and from court—are a matter of profound public concern. Even now, the minister should reconsider the idea that a civilian in court would pass someone to a contracted-out civilian employee. If an attempt was

made to break free, there might be confusion over who had the power of arrest and over what would happen if a public complaint was made about disciplinary procedures.

**The Deputy Presiding Officer:** We must get through groups 22 and 23 by 10.12 am, so I give my regrets to Mr Fitzpatrick and Mr McAllion, whom I cannot call to speak.

**Hugh Henry:** I will briefly deal with some of the points that have been made. Concerns have been expressed about financial issues. Roseanna Cunningham and George Lyon spoke about potential budget savings. Roseanna Cunningham asked whether, if money was removed from the police budget, the number of police constables would be reduced and, conversely, George Lyon asked for an assurance that any money that was saved would release police constables for the front line.

Chief constables will be allowed to use their resources most appropriately to get the best value from them and to improve the service that they provide and the wider public's confidence and security. Our proposals are not about reducing the number of police officers by using civilians. Equally, it would be wrong for ministers or the Parliament to try to say how the chief constables should use their budgets. That is an operational matter for the chief constables. However, the chief constables have told us clearly that, if they have the discretion to use civilians where that is appropriate, they will be able to free up resources to improve services at the front line.

Jim Wallace's letter of December 2002 to Pauline McNeill, the convener of the Justice 2 Committee, cites the example of Lothian and Borders police. Currently, some 40 police officers are deployed routinely to Edinburgh High Court and to Edinburgh sheriff court. Lothian and Borders police believe that those courts could be policed by a mixture of officers and PCSOs with the appropriate powers. The chief constable of Lothian and Borders police believes that, if PCSOs were to be used, 30 court custody officers could be employed, releasing five officers to front-line duties. In other words, Lothian and Borders police would make an operational decision to put more police officers on front-line duties as a result of the provisions.

10:00

**Pauline McNeill:** I ask for clarification, as there might be confusion about the powers that the bill will give. Am I right in saying that the chief constables will have the power to civilianise the role of the police custody officers in the courts if they want to do so but that they will not be able to contract it out?

**Hugh Henry:** Absolutely. Although Roseanna Cunningham clarified her comments, her initial remarks created some confusion. Amendment 71 will ensure that those who are employed in the courts—if chief constables choose to employ civilians—will be employed by the police. The work will not be contracted out.

**Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab):** I recognise the advantages of employing civilian officers in the mustering of witnesses and the like. That job could easily be done by a civilian. However, does the minister agree that there is a proper solemnity that attaches to the proceedings in our courts, especially in the sheriff courts and the High Court? Furthermore, despite the improvements that have been made in court design, there are still substantial issues about the safety of witnesses, prosecutors, judges and sheriffs. Will ministers make it clear to chief constables that, in achieving the balance that is expected, those aspects must be properly taken into account?

**Hugh Henry:** The issues of security and solemnity, along with other matters in the courts, will be taken seriously. Again, that will come down to operational decisions that are made by the chief constables. I have heard nothing to suggest that chief constables would do anything other than ensure the highest level of security in the courts.

I am aware of the time pressure, but I will quickly address some of the other questions that have been raised. I hope that I have made it clear that there will be no contracting out of security services in courts. Beyond the courts, chief constables will be able to contract out certain duties. That will not be mandatory, but it can be done if they believe that it is appropriate. The training of officers is a matter for the police; the civilians will be inspected by HMIC. Finally, a question was raised concerning the Freedom of Information (Scotland) Act 2002. As I have said, that act will apply and will be used under the direction of ministers when we believe that that is necessary. I give that assurance.

**The Deputy Presiding Officer:** The question is, that amendment 71 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Mundell, David (South of Scotland) (Con)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)

Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

#### ABSTENTIONS

McAllion, Mr John (Dundee East) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 66, Against 27, Abstentions 2.

*Amendment 71 agreed to.*

*Amendment 72 moved—[Hugh Henry].*

**The Deputy Presiding Officer:** The question is, that amendment 72 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Etrick and Lauderdale) (LD)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)

Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Mundell, David (South of Scotland) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### ABSTENTIONS

McAllion, Mr John (Dundee East) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 67, Against 27, Abstentions 2.

*Amendment 72 agreed to.*

*Amendment 73 moved—[Hugh Henry]—and agreed to.*

*Amendment 101 moved—[Roseanna Cunningham].*

**The Deputy Presiding Officer:** The question is, that amendment 101 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)

Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Mundell, David (South of Scotland) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

McAllion, Mr John (Dundee East) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 27, Against 67, Abstentions 2.

*Amendment 101 disagreed to.*

*Amendment 100 not moved.*

*Amendment 102 moved—[Roseanna Cunningham].*

**The Deputy Presiding Officer:** The question is, that amendment 102 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

**AGAINST**

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Etrick and Lauderdale) (LD)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)

Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Mundell, David (South of Scotland) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**ABSTENTIONS**

McAllion, Mr John (Dundee East) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 25, Against 67, Abstentions 2.

*Amendment 102 disagreed to.*

**Dennis Canavan (Falkirk West):** On a point of order, Presiding Officer. If there are to be more divisions on this group of amendments, can we have them all at once to save time?

**The Deputy Presiding Officer:** That would be difficult, because I expect Miss Cunningham to move some amendments but not to move others. We will press on and try to get to your amendment 74 as quickly as possible. However, we are almost out of time.

*Amendment 103 moved—[Roseanna Cunningham].*

**The Deputy Presiding Officer:** The question is, that amendment 103 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)

Grahame, Christine (South of Scotland) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Mundell, David (South of Scotland) (Con)

Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

McAllion, Mr John (Dundee East) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 29, Against 68, Abstentions 2.

*Amendment 103 disagreed to.*

*Amendment 104 moved—[Roseanna Cunningham].*

**The Deputy Presiding Officer:** The question is, that amendment 104 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (North-East Scotland) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Mundell, David (South of Scotland) (Con)

Paterson, Mr Gil (Central Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

**AGAINST**

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Etrick and Lauderdale) (LD)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McLeish, Henry (Central Fife) (Lab)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)

Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**ABSTENTIONS**

McAllion, Mr John (Dundee East) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 36, Against 61, Abstentions 2.

*Amendment 104 disagreed to.*

*Amendments 105 to 107 not moved.*

**After section 61**

*Amendment 74 moved—[Dennis Canavan].*

**The Deputy Presiding Officer:** The question is, that amendment 74 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Mundell, David (South of Scotland) (Con)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

**AGAINST**

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)



Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

McAllion, Mr John (Dundee East) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 30, Against 69, Abstentions 1.

*Amendment 74 disagreed to.*

**The Deputy Presiding Officer:** Amendment 75 is grouped with amendment 76.

10:15

**Paul Martin (Glasgow Springburn) (Lab):** Amendment 75 refers to assaults on emergency personnel. Parliament passed the Protection of Wild Mammals (Scotland) Bill to protect our wildlife and we will deal later with a section of the Criminal Justice (Scotland) Bill that is also about protecting wildlife. I want to give effect to the public's opinion that Parliament should ensure that we also protect those who deliver a public service in our community from people who attack them. There is no more repulsive act than that of people attacking firefighters or paramedics who are trying to save lives. That is the theme of amendment 75.

During stage 2, I lodged an amendment that was equivalent to amendment 75. The minister advised me that he had difficulties with that amendment because it did not embrace all our public service personnel. If the Executive and the Lord Advocate are not willing to accept amendment 75, I seek two assurances from them: first, that whatever legislation is introduced will deal strictly and robustly with those who attack public service personnel and that the attackers will feel the full weight of the law; and, secondly, that the legislation will be carefully monitored to ensure that it is effective.

I move amendment 75.

**Bill Aitken:** I will deal first with amendment 75. Assaults on emergency services personnel cannot and should not be tolerated. I have little doubt that Paul Martin lodged amendment 75 because of painful and unpleasant experiences in his constituency. It is deplorable that firefighters and others who carry out their duties in conditions that are often extremely dangerous should have that level of danger increased by the actions of the irresponsible and the downright wicked.

We see considerable merit in amendment 75. I draw members' attention to the fact that, under the Police (Scotland) Act 1967, assaults on police officers can be dealt with on the basis that Paul Martin suggests. Amendment 75 simply seeks to extend such protection to others who carry out similarly valuable public services. Indeed, it could be argued that emergency ambulance crews, for example, are less equipped to deal with violent behaviour than are trained police officers. We acknowledge that there is a danger in specifying those who would be entitled to the additional protection that amendment 75 proposes. Nevertheless, we think that amendment 75 is worth while and we will support it.

Amendment 76 also deals with the protection of police officers. It is unfortunate but true that many of those who commit crimes are drug abusers who inject, and that with such habits goes the problem of HIV and other infections, which frequently cause tragic results. If a police officer is assaulted by being scratched, bitten or spat on, it is possible that they will be infected with HIV. Medical testing takes time and would normally need to be done on at least two separate occasions over three to four months in order to assure an assaulted officer and his or her family that any virus present in the arrested person who assaulted the officer had not been transmitted.

It is not too difficult to imagine the degree of concern that must be felt during such an interval. Amendment 76 seeks to allay that concern by requiring an arrested person to provide an appropriate sample on arrest. It is obvious that that would not resolve the problem in every case but if an accused person were to test negative, it is clear that that problem would immediately be resolved. It might be argued that if an arrested person were to test positive for a virus, it might make the situation more worrying for an assaulted officer. However, it is important that people should know as early as possible exactly what the situation is.

Amendment 76 would provide considerable reassurance to police officers and their families, and I commend it to members.

**Karen Gillon (Clydesdale) (Lab):** I support the intention behind amendment 75, which is in the name of my colleague, Paul Martin. Last September, following brutal and unprovoked attacks on fire service personnel who were on their way to save lives, I instigated a members' business debate on the issue, which was supported by a large number of members across the parties. Paramedics and ambulance personnel also face the threat of violence in the line of duty.

I support the intention behind amendment 75, but I think that there is scope for further work to be done in relation to other emergency service personnel, particularly those who work in accident and emergency departments. Day in and day out, they face the threat of violence in a way that many of us find abhorrent. We cannot understand why such violence happens. I seek assurances from the Lord Advocate, if he is to respond to the debate, that the Executive will move forward on the issue and will take a clear and unequivocal stance in relation to attacks on emergency service personnel, who provide public services. Such attacks cannot and will not be tolerated in a modern Scotland. I also ask him to clarify why a provision exists to protect the police, whereas there is no equivalent provision for other emergency service personnel.

As I have some sympathy with Bill Aitken's amendment, I ask the Lord Advocate to clarify exactly what the Executive's position is on the matter that it deals with. If anyone else required a sample to be provided to let them find out whether they were in danger of contracting a life-threatening illness or disease, that would naturally happen, but police staff seem unable to receive that support. It is vital that the police get the reassurance and comfort that a sample would give them. They should be able to have the tests that would reassure them that their lives are not in danger and that would ensure that they do not have to live with unjustified worry.

**Phil Gallie (South of Scotland) (Con):** I welcome the support that Karen Gillon has given to Bill Aitken's amendment 76. On many occasions in this chamber, the Lord Advocate has been extremely reasonable, but I hope that we do not hear only assurances from him today. I would like him to go further and support amendment 76.

The Public Petitions Committee received a petition on the topic that Bill Aitken's amendment deals with. It highlighted a case in which a policeman whose wife was expecting a child had been attacked in such a way. The weight on his mind and his wife's mind was horrendous and the case resulted in some fairly tragic circumstances. That example received the sympathy of every member who heard the presentation at the Public Petitions Committee meeting. On the basis of that evidence alone, Bill Aitken's amendment would be well worth accepting.

We expect much from our police officers. They are on the front line and protect the weak in society from the strong. In so doing, I believe that they should expect whatever protection we can give them, provided that it is not unfair. Bill Aitken's amendment is not unfair to anybody. When a criminal is convicted of a crime, he expects and receives from our custodial system a recognition of his welfare and well-being. Furthermore, he is treated by the prison service in a way that involves every possible method of bringing about rehabilitation and a change of attitude, and his human rights are looked after. However, the policeman who has been left with a massive question mark over his health after an incident in which blood contamination might have taken place will get no such protection if we ignore Bill Aitken's amendment today.

I plead with every member in this chamber to support Bill Aitken's extremely reasonable amendment. This is not a political issue; it is an issue that involves our support for our policemen.

I have no difficulty with amendment 75. Paul Martin made a good case and put his amendment well. His amendment also deserves the support of the chamber.

**Mrs Margaret Smith (Edinburgh West) (LD):** I support amendment 75. I have previously lodged motions and amendments on the same subject. The members' business debate that Karen Gillon secured on the subject of attacks on fire crews was well attended. It is important that this chamber sends out the message that we should give the best possible protection to fire crews, paramedics and other members of the emergency services when they are doing their jobs on our behalf.

I would particularly like to highlight an issue that Karen Gillon touched on: the situation in our accident and emergency centres on Friday and Saturday nights. The way in which our health service workers are being treated is unacceptable. If we do not accept Paul Martin's amendment, I seek clear assurances from the Lord Advocate and the Executive that they will pursue the matter and quickly come back to Parliament with proposals for a way forward. However, I believe that we really ought to accept amendment 75.

**Brian Fitzpatrick:** I suspect that members across the chamber will have considerable sympathy with amendment 76, with the intention behind Douglas Keil's petition, PE482, and with Constable Pratt's predicament, which Phil Gallie mentioned. I pay tribute to the work that Constable Pratt does in the constabulary in my constituency.

I hope that the Executive responds to the policy intention behind, rather than the wording of, amendment 76. It is so widely drafted that it includes not only the police constable's assailant but "another person", who could be the victim or any other person in the area. I hope that the minister will address both that issue and the problem that arises from the use of the word "subsequently", the interpretation of which is simply too wide.

I urge ministers to consider the despicable situation that a number of police officers face when people deliberately cut themselves and threaten police officers with infection. Such situations are made worse when, as part of some exquisite playing-out of bravado, they suggest that they will not assist the police officer, or they heckle or threaten the police officer who is simply performing his duties on behalf of us all. That cannot be tolerated and I hope that ministers will produce a positive policy resolution that will address a problem that will not go away.

**Pauline McNeill:** Amendment 75 deals with an important matter. Trade unions have long complained about attacks on their members—nurses, midwives, those who work in accident and emergency services and so on—not being taken seriously. One of the reasons for that is that such attacks are not always reported. I am pretty sure that the Executive will tell us that it is taking the matter seriously and recognises the need for a

campaign to make people realise that any attack on a national health service worker is a crime and should be reported. I am sure that such attacks will be properly dealt with by our prosecution system.

I also have sympathy with amendment 76. However, it will suffer from the fact that we have had only a few days in which to consider it. If the amendment falls, it is not unreasonable to ask the Executive for a commitment that it will give Parliament a chance to examine the issue. Perhaps a parliamentary committee could spend some time examining what happens to police officers on our streets. I think that there must be some protection in that regard and I welcome Bill Aitken's contribution to the debate.

**Phil Gallie:** Will the member give way?

**Pauline McNeill:** I had finished speaking, but I will allow Mr Gallie to speak.

**Phil Gallie:** In that case, I doubly thank Pauline McNeill.

I put it to her that the issue that amendment 76 deals with is an important one for this Parliament to deal with in its last few days. Does she agree that it would be better for us not to pass the buck to future parliamentarians but to take the opportunity to deal with the issues in the amendment today, if the Lord Advocate can be persuaded that his comments will be sufficient to guard against the difficulties that Brian Fitzpatrick warned us of?

**Pauline McNeill:** It is because I believe that the proposal is worthy of detailed examination and must be got right that I believe it would be wrong to agree to the amendment today. The reason why I chose to speak on the issue—I am sure that it is also Brian Fitzpatrick's reason—is that I do not want us to lose sight of the fact that work has to be done on the issue.

We must ensure that we use the committee system to give the proposal the scrutiny that we would give to any piece of legislation. It would be wrong to take the view that, because we agree with the principle behind the amendment, we should simply agree to it today.

10:30

**The Lord Advocate (Colin Boyd):** I will respond to amendment 75; Hugh Henry will respond to Bill Aitken's amendment 76.

Paul Martin has raised an important issue. Every day, members of our emergency services face dangerous situations and they should be able to carry out their duties in the knowledge that they will be protected against assault or obstruction. Anybody who assaults a firefighter while he is

putting out a fire clearly puts the public, as well as firefighters and other emergency personnel, in danger.

Of course, not only firefighters but other public service workers require the full protection of the law. Karen Gillon referred to ambulance personnel, hospital doctors and nurses in accident and emergency clinics, and I have received representations on behalf of transport workers such as bus and train drivers. They all provide a service to the public and, because of that service, put themselves at varying degrees of risk of assault, such as the police officer who makes the arrest, the firefighter who fights the fire or the bus driver on the night bus.

Amendment 75 seeks to ensure that the criminal law fully protects members of our emergency services against attack. I agree with the motivation behind the amendment. Laws that allow prosecution for the obstruction or assault of emergency workers are, of course, already in place. Section 30(2) of the Fire Services Act 1947 states:

“Any person who wilfully obstructs or interferes with any member of a fire brigade ... who is engaged in operations for fire-fighting purposes shall be liable on summary conviction to a fine not exceeding”

level 3 on the standard scale. In addition, a person may be prosecuted for vandalism under section 52 of the Criminal Law (Consolidation) (Scotland) Act 1995, which provides stiffer penalties. There is also the common-law offence of malicious mischief.

The common law on assault applies to everybody and provides protection from attack, including actual or threatened assault. The maximum sentence for assault when prosecuted on indictment is life imprisonment. The common law's flexibility allows it to respond to assaults on, and other unacceptable behaviour towards, members of the emergency services as well as others, whatever the circumstance.

One of the most tragic cases that I prosecuted as an advocate depute was that of two teenagers who placed concrete troughing lids on a railway, causing a train to derail and hit a bridge and killing a driver and a passenger. Those teenagers were prosecuted for murder, convicted by the jury of culpable homicide and sentenced to 15 years, detention.

I mention that case, although it is not directly in point to Paul Martin's amendment 75, to demonstrate that that action resulted in the death not only of a public service worker but of a member of the public. The case illustrates just how seriously my department and the courts view such behaviour and how the common law's flexibility is used in practice.

However, I am alert to the degree of public concern regarding attacks on public service workers. That is why I have arranged for guidance to be issued to all procurators fiscal instructing that reports of incidents that involve attacks on public service workers—including firefighters, ambulance paramedics, doctors, nurses and transport workers—are to be dealt with seriously. The location of the incident and the fact that the workers are providing a service to the public will be aggravating factors that procurators fiscal will take into account when they deal with such cases. Those factors will influence the choice of court where such offenders may be tried so that, if convicted, the courts can sentence them appropriately. I am in no doubt that that guidance will ensure that reports of attacks on public service workers will be investigated thoroughly and treated with appropriate severity in the existing system. The criminal justice system needs to provide a tough response to members of our society who seek to disrupt people who provide valuable services to the public.

On monitoring, I assure Paul Martin on two counts. The Procurator Fiscal Service will monitor the use of the guidance, and I can also advise him that Her Majesty's fire service inspectorate for Scotland recently conducted a survey of assaults on officers. Between 1 January and 30 June 2002, fire brigades recorded a total of 94 attacks. Seventy-nine were in Strathclyde and 12 were in Lothian and Borders. Twenty-nine of the attacks were verbal and 53 involved missile throwing. Twelve attacks were classed as physical, all of which took place in the Strathclyde area. As a result of that work, the inspectorate has decided to monitor attacks on firefighters as part of the annual statistical return. The Executive will work with the inspectorate to ensure that the monitoring is able to track incidents of assault and find out whether the existing law provides a satisfactory response.

I do not believe that there is a proven need for legislation at this stage. However, we must, of course, keep the matter under review. I am in no doubt that if the law is seen to be deficient—either through the monitoring that I have mentioned or by others who observe such matters—in protecting public service workers, a future Executive and Parliament will revisit it. In so doing, the Parliament would have to consider in detail the various laws that are already in place to protect public service workers. It would also have to produce a considered and robust response to an issue that we all agree to be important.

I therefore invite Paul Martin to withdraw amendment 75.

**Hugh Henry:** Bill Aitken suggested in his speech that the offence that he proposes in

amendment 76 would apply when a person is arrested. In fact, if members read amendment 76, they will see that that is not the case. It would apply when anyone, including an innocent accident victim, comes into contact with a constable.

No member would disagree with the sentiments behind amendment 76. The issue is important, and there are well-documented cases of officers being bitten or spat at by offenders who may be drug users carrying infection. We would all agree that, in such circumstances, it is perfectly reasonable for an officer to want to know whether they have been exposed to HIV or some other infectious disease. The Scottish Police Federation has already raised the issue with the Executive and the Parliament's Public Petitions Committee.

The Executive's position on the issue is clear: we have indicated that we believe that the Scottish Police Federation has a case. However, the solution is not as simple as Bill Aitken and Phil Gallie suggest. Before we commit to legislating, a number of questions need to be answered. What is the nature of the blood test that could be carried out? Who would carry it out and would there be limits on the types of blood infection for which they could test? What would happen to the information after it had been collected—must it be destroyed or could it be retained?

**Phil Gallie:** I agree that those matters must be defined. However, on many occasions, similar questions could have been asked about other amendments, including Executive amendments. The point of detail is not contained in the bill. I suggest that background work must be undertaken and a formula set up, but that that should not stop the minister accepting the principle that is outlined in amendment 76, as he has done on other issues.

**Hugh Henry:** I disagree. Particular anomalies could arise and particular mistakes could be made if the amendment was accepted as drafted.

Should protection extend to civilian members of police forces, such as turnkeys or traffic wardens, who come into contact with the public? Should everyone be compelled to submit to a blood test? Should that include suspects who have not been charged? What about innocent parties, such as victims, who may have been injured in an attack or a road accident? One of the fundamental problems with the amendment is that it talks about people who "come into contact" with the police; it is not necessarily about those who are arrested.

**Brian Fitzpatrick:** I have concerns that amendment 76 is, to be blunt, badly drafted and too wide. We should not make bad law. However, that should not be the end of the matter. I hope that the minister, without binding our successors in any form—I suspect that he will be back on the

front bench in the not-too-distant future—will be able to say that progress will be made on the issue, because it will not go away; Labour members will not let it.

**Hugh Henry:** Brian Fitzpatrick is right. The concerns that he has articulated about the problems that confront police officers are well documented, and there is huge sympathy for those concerns. I give Brian Fitzpatrick the assurance that something needs to be done—I think that I speak for everyone across all parties on that. Indeed, something should be done.

Let me return to the situation in which we would find ourselves if we were to agree to Bill Aitken's amendment 76. Phil Gallie may describe it as a reasonable amendment, but it is a reasonable amendment that could have grave implications. People can cut themselves, perhaps because of falling on ice, as the First Minister recently did at Bute House, because they have tripped or because they have been mugged. If a police officer were to come to the assistance of someone who had cut themselves in that way, then amendment 76 would apply to them, even if they have no criminal convictions, have not been involved in any crime and have done nothing wrong. Under the terms of the amendment, if such a person did not give a blood sample, which may be recorded on a national database, they could be charged. That cannot be right, yet those terms would apply if amendment 76 were agreed to.

I assure the Parliament that we take the matter seriously, but we want to clarify the questions involved before we move to legislate. We have told the Public Petitions Committee that we intend to consult publicly on the matter, and the consultation paper will be issued in March. I give Brian Fitzpatrick, Bill Aitken, Pauline McNeill, Phil Gallie and anyone else with concerns the assurance that we intend to act. However, we need to ensure that we get it right and, unfortunately, Bill Aitken's amendment would not do that. I hope that he will not move the amendment, on the understanding that the Executive will be taking action on the issue.

**Paul Martin:** I intend to withdraw amendment 75, based on two factors. The first is that there will be a proactive approach to sentencing policy, and I welcome the guidance from the Lord Advocate on that. The second is that that policy will embrace all public sector workers, as discussed by the Lord Advocate and Karen Gillon. I have been receiving representations on that point from senior union officials at Unison and the GMB. They called for an amendment, but said that they would rather there were measures embracing all public sector workers who might be attacked while carrying out their duties.

I thank the Lord Advocate for responding to the issue in a positive manner, and I look forward to measures being implemented. I will, however, revisit the matter in the form of a member's bill if those measures do not prove effective during the period that the Lord Advocate set out.

**The Deputy Presiding Officer:** Paul Martin indicated that he wishes to withdraw amendment 75. Is it agreed that the amendment be withdrawn?

**Members:** No.

**The Deputy Presiding Officer:** In that case, the question is, that amendment 75 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (North-East Scotland) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Mundell, David (South of Scotland) (Con)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

#### AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)

Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeill, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morrison, Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 38, Against 59, Abstentions 0.

*Amendment 75 disagreed to.*

*Amendment 76 moved—[Bill Aitken].*

10:45

**The Deputy Presiding Officer:** The question is, that amendment 76 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (North-East Scotland) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Campbell, Colin (West of Scotland) (SNP)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Mundell, David (South of Scotland) (Con)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

**AGAINST**

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)

Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morrison, Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 36, Against 60, Abstentions 0.

*Amendment 76 disagreed to.*

**The Deputy Presiding Officer:** Amendment 108 is in a group on its own.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** Amendment 108 concerns an important issue of principle, and I welcome the opportunity to raise the matter in Parliament in the context of the Criminal Justice (Scotland) Bill.

It is in the public interest that crimes are reported. We would all accept that it is a civic duty that, when any of us becomes aware of a suspected crime having been committed, we report it to the police—we do not keep quiet about it, but act in accordance with that civic duty. As far as I understand, however, there is not a general legal duty to do so. There is no legal duty, backed by criminal sanctions, for any of us to report crimes generally.

There are specific circumstances in which it is a crime to fail to report a crime that one sees being committed. For example, I believe that it is a crime to fail to report a road accident in which somebody has been injured. There are specific categories of suspected crime for which the state recognises that it is so much in the public interest to report those crimes that failure to do so is in itself a crime.

I believe that we should act as good Samaritans, and amendment 108 would introduce a duty so to do in respect of public authorities. We know that there are many reasons why individuals will not report crime. For example, there is often widespread intimidation and fear in communities in which drug dealing goes on. That is an extremely serious problem. However, there is also a problem when crime is committed in public authorities and institutions. There are many reasons for such crimes not being reported, because a public body might not wish to launder its dirty linen in public. In crimes of dishonesty, theft, fraud or the like that have been committed in the workplace or in a public body—perhaps involving documents relating to particular employees—there are many reasons for the employer not wishing the circumstances of that crime to become known and to come under the public gaze. An institution may well seek to avoid the bad, or any, publicity that would accrue if such matters were reported to the police.

**Karen Gillon:** I understand some of the points that Fergus Ewing makes, but is he seriously proposing that, if a janitor at a local community centre does not report a suspected crime because of fear for his own life or fear for his family, he will become the criminal?

**Fergus Ewing:** That is not what the amendment does at all.

**Karen Gillon:** Yes, it is.

**Fergus Ewing:** No, it is not. The body, not the individual, would be committing the crime. The duty would be imposed on the public body rather than on the individual.

**Karen Gillon:** Will Fergus Ewing give way on that point?

**Fergus Ewing:** No—I have dealt with it.

I lodged amendment 108 in the light of the case of a constituent who had a particularly difficult experience. It is not appropriate that I rehearse the circumstances of his case now, although I believe that the minister is aware of them. I am aware of the adage that hard cases make bad law, and I subscribe to that. In any case, my constituent wished me to raise the general principle that it is in the public interest that, when a crime is committed in a public institution, that crime should not go unreported. I would very much welcome the minister's response on that general principle.

I am aware that the provisions of amendment 108 are extremely wide, and that it may be appropriate for further detailed consideration to be given to the principle before it is incorporated into the law of Scotland. I would like the minister to indicate whether he accepts that there is a problem that needs to be addressed. From the

correspondence that I have had with him, I understand that he accepts that. However, he may not accept that it would be appropriate to create a criminal offence along the lines that I have suggested. If the minister accepts that there is a general problem that we need to address—as I believe he does—would he consider inviting the Scottish Law Commission to consider the matter further, with a view to publishing a consultation paper on it? If the minister will give the undertaking that the matter will be considered on that or any other reasonable basis, I will not press the amendment to a vote.

I move amendment 108.

**The Deputy Presiding Officer:** I remind members to keep their speeches short. If they do not, there will not be time to debate other amendments.

**Bill Aitken:** My initial view was that amendment 108 was self-evident. Clearly, it is the duty of all of us—either as individuals or as members of a corporate body—to report crime when it happens. There should be no need for an amendment of this type. I am not privy to the information that Fergus Ewing and the minister have about the specific case that Fergus Ewing mentioned, but I accept that there has been a problem.

If a local authority housing department is aware that drugs are being supplied in an area such as a tenement close, that should be reported. I imagine that local authorities have sometimes felt inhibited from doing that.

Amendment 108 is interesting. It should be taken further, but I am not entirely convinced that by agreeing to the amendment today we would get very far. For that reason, we cannot support the amendment at this stage.

**Karen Gillon:** I have serious concerns about amendment 108, especially the wording of subsection (3) of the new section that it would insert in the bill. That subsection contradicts what Mr Ewing said. It states:

“Where an offence under this section is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) an employee ...

that person, as well as the authority, shall be guilty of the offence and liable to be proceeded against and punished accordingly.”

I have serious concerns about that. If we agreed to amendment 108, we would be telling the most low-paid, vulnerable employees in the public sector that they were responsible for reporting crimes in their community, even if their lives were threatened as a result and they were receiving no support from their management or the local police service. We would be telling them that they would



become criminals if they failed to report offences. Unless we back up the amendment with far more effective policing in local communities than is available at present, I am not prepared to put those people in that position. For that reason alone, I will not support the amendment.

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** As has been indicated, amendment 108 would have the effect of introducing a new criminal offence where it is shown that, without reasonable excuse, a public authority fails to report to the police that an employee or member of the authority may have committed a suspected offence on the premises. As Karen Gillon rightly pointed out, subsection (3) of the amendment could also catch employees.

The scope of the proposed duty and new offence would be wide, although the amendment does not indicate what would be specified as a relevant offence. That decision would be left entirely to ministers. There is already an obligation to report certain offences. In the case of money laundering, the extent of that duty is set out in detail in statute. Under the Misuse of Drugs Act 1971, it is an offence for the management of any premises knowingly to permit the production or supply of drugs on those premises. An employer who knew that drugs were being produced or supplied would be obliged to inform the police of that. That is a very specific provision.

Karen Gillon made it clear that under the amendment any employee, as well as the authority, could be found guilty if it were proven that the duty had been breached with their consent or connivance or because of neglect attributable to them.

Fergus Ewing was right to say that we have corresponded on this issue. I am not at all dismissive of the intention behind the amendment, and it would be unacceptable if public authorities failed to report incidents to the police to avoid bad publicity or if they feared that reporting such incidents might have an effect on their funding assessments. However, I am not persuaded that a statutory duty and a new criminal offence to enforce that are either necessary or likely to be effective.

It is not in a public authority's interests to allow crime to fester on its premises. However, it is unlikely that a prosecution would result from failure to report a suspected crime if the original crime were not reported. Indeed, it would be very difficult for the Crown to prove that someone had not reported a crime or suspected crime, as the procurator fiscal would have to prove that there were circumstances giving rise to suspicion and that the employer knew of those circumstances. An employee who is currently unwilling to report the original incidents to the police would hardly be

prepared to report the breach of a statutory duty, as that would involve reporting the employer or responsible officer, rather than the individual suspected of the criminal behaviour.

It is important to make it clear that, regardless of the attitude of public agencies, there is nothing to prevent an employee or other person from making a complaint about a suspected criminal offence to a professional body, the police or the procurator fiscal. The Public Interest Disclosure Act 1998 provides protection for individuals who make certain disclosures of information in the public interest. That includes the disclosure of information that, in the reasonable belief of the worker making the disclosure, tends to show *inter alia* that a criminal offence has been committed, is being committed or is likely to be committed.

I understand fully what lies behind amendment 108, but I fear that it could lead to complications greater than those that it is intended to resolve. For example, an employee may be the subject of malicious accusations. If the public authority got wind of those accusations, it might feel that it was safest to report them, to ensure that at a later stage it would not be found culpable of failing to do so. That could put the employee concerned under considerable pressure. In the absence of a statutory duty to report an accusation, the employer can conduct an internal investigation, offer appropriate support to staff and resolve matters internally.

The onus to report a crime normally rests with the victim, rather than the victim's employer. I hope that an employer would not act unreasonably in refusing to report a matter to the police. That is an important point, but I do not believe that the case has been made for the kind of legislation that Fergus Ewing proposes.

**Fergus Ewing:** I acknowledge that much that the minister says is correct in a general sense. I believe that there is still a serious problem that has not been addressed, but it would not be appropriate to press the matter to a vote without giving it further consideration.

*Amendment 108, by agreement, withdrawn.*

#### **After section 61A**

**The Deputy Presiding Officer:** Amendment 81 is in a group on its own.

**Bill Aitken:** I will be brief, because amendment 81 is a probing amendment. The amendment highlights the fact that it is not entirely clear from existing legislation whether there is a requirement for further legislation to determine where courts can sit if they sit outwith their usual location. I understand that when the High Court sat at Camp Zeist in the Netherlands that was dealt with by the application of a regulation. However, that needs to

be clarified. Amendment 81 is intended to deal with the difficulties that arise in prisons from time to time, which in recent years have increased in number because of a combination of European convention on human rights restrictions and Executive ineptitude.

Under the amendment, a court could be convened within a prison and offenders could be dealt with on a summary basis, allowing additional and consecutive sentences. That would speed up the system considerably. We suggest that that approach be adopted, but at the moment it is unclear whether the procedures are in place to allow it. I will listen to the minister with interest.

I move amendment 81.

**Mr Wallace:** Amendment 81 is not necessary or appropriate. The position regarding sheriff court district boundaries and locations is that, as a matter of practice, proposals are the subject of consultation with a range of interests. Those include the senior judiciary, the Scottish Court Service, which is an agency of the Scottish ministers with no independent legal personality, the Crown Office and others. In the determination of boundaries and locations, key considerations are convenience to those who use the courts, the efficiency and effectiveness of the court system and alignment with local authority boundaries, in so far as that is practicable. The legislation is currently applied on that basis.

Existing legislation allows a court to be held at any place, including a prison, should such a contingency be necessary, appropriate and in the interests of justice. A court would not normally be held in a prison, for legal and practical reasons: fairness to the accused, especially under human rights legislation; different functions and facilities of courts and prisons; and the inconvenience and uncertainty that would be given to the witnesses and other members of the public involved. Let us bear in mind the fact that our court proceedings are public events, except in exceptional circumstances.

Section 63A, which allows judicial proceedings to be held over live television links from prison in certain circumstances, is intended to reduce the movement of prisoners between the prisons and the courts. There is even a judicial override, under which the judge or sheriff can insist on the physical appearance of the accused if he is of the view that that is necessary in the interests of justice.

I hope that that is sufficiently reassuring to Bill Aitken, and that he will withdraw his amendment.

**Bill Aitken:** I am obliged for that explanation, which makes the amendment unnecessary.

*Amendment 81, by agreement, withdrawn.*

## After section 64

11:00

**The Deputy Presiding Officer:** Amendment 8 is in a group on its own.

**Hugh Henry:** At stage 2, the Executive agreed to withdraw amendment 16, which was the same as this amendment, to allow the committee to consider the matter further. We provided some additional information that we hope assisted the committee in that respect.

The Executive wanted to look at ways of improving the efficiency of the criminal justice system by more effective use of electronic communication. In particular, we wanted to examine how the technology could be used with regard to documents such as indictments, complaints and warrants.

We concluded that there was provision for the electronic transmission and storage of most of those documents if and when that was needed, under the Electronic Communications Act 2000. However, the act does not allow provision to be made for the electronic transmission and storage of warrants obtained at common law. Amendment 8 is therefore required so that ministers can make an order to regulate the electronic transmission and storage of such warrants.

The committee raised several points, including the security of the system. Many people are naturally cautious about sending items electronically, and it is worth observing in this context that the encryption security of electronic systems that require it is not new—it has developed over 25 years into a sophisticated science. Many different layers of security are now available and can be designed specifically for the situation that they need to serve. Nevertheless, the Executive would not make that move unless we were satisfied about those technical matters. Therefore, if the Parliament were to give its approval today, we would not make any order permitted by the amendment until we were entirely content that all the appropriate technical provisions were in place and fully tested. It would not be in the interests of justice to do anything that would compromise the integrity of search warrant procedures, and ministers would not contemplate anything of that kind.

The committee also asked how the proposed new arrangements would interface with current search warrant procedures and what impact they would have. In fact, the general principles of obtaining a search warrant would remain entirely unchanged. The police would still have to approach the procurator fiscal in the first instance to explain why they thought that a search warrant was necessary. The procurator fiscal would then

consider the matter and, if he or she was satisfied that there was sufficient legal basis for applying for a warrant and that it was in the public interest to do so, prepare the necessary documentation. The warrant would then be placed in front of a sheriff to consider, and he or she would in turn have to be satisfied that there was good reason to grant it.

That is what happens at the moment, and all those levels of scrutiny would remain unchanged. What would change, however, is that the search warrant would not have to be moved long distances around Scotland between police, duty fiscals and sheriffs, especially for out-of-hours requests. Furthermore, additional flexibility will be provided in section 49, which will permit sheriffs, if need be, to deal with warrants while they are not in their sheriffdom, as they must be at the moment. That will apply equally to traditional warrants and their proposed electronic counterparts, and will be particularly helpful in dealing with out-of-hours requests.

In addition to contributing to the efficiency of the system as a whole, I believe that amendment 8 will make an important contribution to the fight against crime. In many instances, it will reduce the time that is needed to process search warrants in the chain between police, fiscal and sheriff, where time can be a critical factor.

I move amendment 8.

**Bill Aitken:** I have a healthy suspicion of technology, and I am not totally reassured by what the minister has said. However, if things are going to go pear shaped, we will know fairly early and remedial action can be taken. On that basis, I am happy for amendment 8 to proceed.

**Stewart Stevenson (Banff and Buchan) (SNP):** The minister is being too modest. The material that was provided to the committee was comprehensive, complete and of excellent quality, and I am happy to support amendment 8.

I would like to make just one small point. It is all very well getting the technology secure, but we must also operate it securely. I hope that the minister will be able to indicate that guidance and training will be given to the people who will use the electronic system, to ensure that the human element does not become the insecure part that damages that useful initiative.

**Pauline McNeill:** I thank the Executive for withdrawing the initial amendment and allowing us to examine the matter in detail.

I am happy to support amendment 8. As the minister said, there is another important provision in section 49, which allows sheriffs to sign warrants in the whole of Scotland and not just in their own jurisdiction. We had the bizarre situation whereby sheriffs were travelling out of hours to the

borders of their jurisdiction to meet police officers in cars to sign warrants. The bill will prevent that from happening in the future.

The committee also queried whether an oath had to be taken, but I think that that is the position only for common-law warrants. I am happy that the minister has given us assurances on that. The procedure is new, so those assurances are important, because there a lot of controversy has surrounded the signature of warrants. The matter should be kept under review in the future.

**Hugh Henry:** I am happy to give Stewart Stevenson the assurance that we will give careful consideration to the need to ensure that those who will operate the system are properly trained and given adequate guidance.

*Amendment 8 agreed to.*

*Amendment 109 moved—[Johann Lamont]—and agreed to.*

## Section 69—Orders

*Amendment 77 not moved.*

## Section 70—Short title and commencement

**The Deputy Presiding Officer (Mr Murray Tosh):** Amendment 16 is in a group on its own.

**Mr Wallace:** Section 70 deals with the commencement provisions for all topics that the bill covers. Amendment 16 delivers on the commitment that we gave at stage 2 to ensure that the wildlife crime provisions will come into effect immediately upon royal assent. It also enables the early commencement of some of the general sections in the bill. Early commencement of the wildlife crime provisions that we introduced at stage 2 will ensure that the new measures are in operation for the season that runs from March to early June, when, regrettably, some of the worst wildlife offences are committed.

Amendment 16 also provides for the early commencement of sections 65 and 68, which deal with transitional provisions, order-making arrangements and interpretation, so that those technical provisions do not need to be commenced separately when we commence the substantive provisions in the bill.

I move amendment 16.

**Lord James Douglas-Hamilton (Lothians) (Con):** The Conservatives strongly support amendment 16. We are aware that the scope and extent of wildlife offences have increased over the years. I introduced a bill to establish Scottish Natural Heritage to protect wildlife in Scotland's countryside, but that organisation on its own is insufficient, and there must be sufficient back-up powers. As RSPB Scotland has very correctly

pointed out, there should be the option of custodial sentences. Sheriff Colin Mackay said on 10 March 2000, in relation to those who were committing terrible crimes:

“Unless prison is an option I do not think you will be much discouraged”.

Reports of wildlife poisoning have increased. In 2002, there were 43 such reports. There have been many thefts, and egg collectors continue to steal. We have an inescapable duty to protect the environment and wildlife, and the RSPB’s aim of having a healthy environment that is rich in birds and wildlife is important not only for tourism and jobs, but for the very quality of life of Scotland itself. As long as wildlife thrives, we can be dead certain that that is a key indicator that the environment is in good condition.

**Euan Robson (Roxburgh and Berwickshire) (LD):** Amendment 16 is welcome, as is section 70. My constituency has the longest border with England of any constituency along the south of Scotland. We felt particularly vulnerable to problems of cross-border traffic in wildlife crime. I know that the local police are particularly keen on amendment 16 and I welcome it. As Lord James Douglas-Hamilton said, an attack on wildlife is an attack not only on the flora and fauna per se but on Scotland’s heritage.

**Mr Wallace:** I am grateful for the welcome that amendment 16 has been given. Wildlife crime is big business and it is important that we have the measures that the bill will introduce to allow us to be more effective in combating such crime. Having introduced a private member’s bill to the House of Commons to deal with the issue and having being beaten by the general election, I find it satisfying to see the measures in legislation and to have the commencement provisions to make them effective for this season.

*Amendment 16 agreed to.*

### Schedule 1

ORDER FOR LIFELONG RESTRICTION: MODIFICATION OF ENACTMENTS

*Amendment 17 moved—[Mr Jim Wallace]—and agreed to.*

### Schedule 2A

WILDLIFE OFFENCES

**The Deputy Presiding Officer:** Amendment 42 is in a group on its own.

**Mr Hamilton:** It gives me great pleasure to move amendment 42, which is aimed at strengthening the hand of those who seek to enforce wildlife law. I greatly appreciate the support of RSPB Scotland, the police and the Scottish Executive in this regard. It is a nice

change for me to have the backing of Jim Wallace and Allan Wilson—better late than never.

Amendment 42 is an attempt to equalise the time bar for all offences in wildlife crime. At present, under section 20 of the Wildlife and Countryside Act 1981, the time bar is six months for some offences and two years for other offences. The importance of making the time bar for all offences two years is simply that most of the crimes will be committed in remote areas where it is difficult to detect them quickly. Unlike human victims, the victims of wildlife crimes are hardly likely to be able to report the crime. Therefore, action is based exclusively on the evidence that can be found and detected before the cases can proceed.

Members will be aware of some of the examples that have been given, but it is worth repeating them. A case of a decaying corpse, for example, is difficult to give a time line. If the bird was killed by poison, the state of decay is likely to show that the offence occurred more than six months ago, which means that the case would fall victim to the time bar. Taxidermists are required to report wildlife transactions annually, which means that if there are any suspicious circumstances, six months will pass before they can be reported and investigated, so prosecutions will be difficult to bring.

The purpose of amendment 42 is to equalise the time bar to two years, to strengthen the hand of those who want to combat wildlife crime. I appreciate the Executive’s support in this regard. I hope that members will agree to the amendment unanimously and send out the clear message that when it comes to wildlife crime, the Scottish Parliament wants to take action.

I move amendment 42.

**The Deputy Minister for Environment and Rural Development (Allan Wilson):** Amendment 42 is very much in line with Executive policy on wildlife crime. Indeed, it had been our intention that a provision achieving the same effect would form part of the future nature conservation bill, which is part of a wider package of reforms to the existing Wildlife and Countryside Act 1981. We had to make a finely balanced judgment at stage 2 on whether we would lodge an amendment in this regard in conjunction with other amendments that were discussed at that stage. We erred on the side of caution, because we did not want to overburden the Justice 2 Committee.

It is good to see that Duncan Hamilton has kept awake and that he has picked up on our initiatives. Amendment 42 re-emphasises the extent to which consensus exists in the Parliament on the need to protect Scotland’s natural heritage and crack down on the activities of the rogue estates to which

Duncan Hamilton referred. I am sure that amendment 42 will be agreed to unanimously.

**The Deputy Presiding Officer:** I will allow Bruce Crawford to make the tiniest of comments.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I am grateful for the Executive's moving in the way that it has done on amendment 42. I wonder whether a comment could be made at some stage about the future nature conservation bill with regard to the poisoning of wildlife and how prosecuting that could be strengthened, as that might have been included in the Criminal Justice (Scotland) Bill.

**The Deputy Presiding Officer:** I do not think that there is a mechanism for that. I ask Mr Hamilton to wind up, although I take it that he does not have a lot to say.

**Mr Hamilton:** We now have total agreement around the chamber. It is a good day for the Parliament.

*Amendment 42 agreed to.*

### Schedule 3

#### MINOR AND CONSEQUENTIAL AMENDMENTS

11:15

**The Deputy Presiding Officer:** There is very little time left. Amendment 48 is in a group on its own.

**Hugh Henry:** Amendment 48 is a minor drafting amendment. The correct term is "substituted" rather than "inserted".

I move amendment 48.

*Amendment 48 agreed to.*

### Long Title

*Amendments 110, 43, 9 and 2 not moved.*

**The Deputy Presiding Officer:** That ends consideration of amendments. We are a minute ahead of time.

*Following are the corrected figures for the votes on the Criminal Justice (Scotland) Bill:*

Amendment 71: For 66, Against 28, Abstentions 2.

Amendment 72: For 67, Against 28, Abstentions 2.

Amendment 101: For 27, Against 68, Abstentions 2.

Amendment 102: For 26, Against 67, Abstentions 2.

Amendment 103: For 29, Against 69, Abstentions 2.

Amendment 104: For 37, Against 61, Abstentions 2.

Amendment 74: For 30, Against 70, Abstentions 1.

Amendment 75: For 39, Against 59, Abstentions 0.

Amendment 76: For 36, Against 61, Abstentions 0.

## Criminal Justice (Scotland) Bill

**The Deputy Presiding Officer (Mr Murray Tosh):** The next item of business is a debate on motion S1M-3730, in the name of Mr Jim Wallace, that the Criminal Justice (Scotland) Bill be passed.

11:16

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** The Criminal Justice (Scotland) Bill is a substantial and significant piece of legislation. It is only right that it should have been subject to rigorous and intense scrutiny by Parliament and, not least, by the Justice 2 Committee. I do not think that either the Parliament or the Justice 2 Committee has disappointed us in their scrutiny of the bill. The committee, in particular, discharged the task of evidence taking, preparing a stage 1 report and scrutinising the bill line by line at stage 2 diligently and effectively—indeed, it even took further evidence at stage 2. I believe that the bill that we are now asking Parliament to agree is much the better for the committee's input.

I put on record my gratitude to the members of the Justice 2 Committee for all their work and to the clerks who kept things running smoothly. I acknowledge the contribution of the other committees that considered the bill. My thanks also go to Richard Simpson and Hugh Henry for their considerable efforts in steering the bill to this stage, and to my officials—there was a huge team of them, because the bill covers a number of different aspects. I know that the bill team has worked exceptionally hard in bringing the bill to this stage and I thank them for the support that they have given me.

It is worth reflecting on how much time has been spent developing the bill. Work did not start with the introduction of the bill in March 2002, some 11 months ago. Before then, we had consulted extensively on some of the major planks of the bill. We consulted on the victim strategy from January 2001, and on Lord MacLean's committee's deliberations and findings during 2001. The child protection measures were consulted on even earlier, in February 2000. It is fair to say that many of the bill's proposals have been in train for almost as long as has our Parliament.

We have always said that the bill is about providing public protection, promoting effective sentencing and keeping Scots criminal law up to date. Those aims, which Parliament supported at stage 1, remain the cornerstones of the bill. Those overarching objectives are underscored by substantial new policy initiatives that will affect positively the people of Scotland.

There will be greater protection from dangerous offenders through the new and innovative high-risk

offenders strategy, which includes the new lifelong sentence of an order for lifelong restriction. Victims will now have a stronger voice in the criminal justice system and will be able to get information about the release of their assailants. Those who are involved in the abhorrent practices of child pornography and trafficking in prostitution will be liable for heavy prison sentences.

We are developing the electronic tagging arrangements and enhancing the arrangements for criminal record checks for those who work with children and vulnerable people. Again, we are providing better protection for the communities that we are here to serve and, not least, protection for those who are vulnerable. By introducing the crime of offences aggravated by religious prejudice we are sending a clear message that such small-minded behaviour will not be tolerated in the Scotland of the 21<sup>st</sup> century.

We have also taken the opportunity to introduce changes to bail that were considered necessary. In a similar vein, we have taken the opportunity to enhance the penalties and enforcement practices for certain wildlife crimes—something that we have just debated with all-party support. The commencement provisions mean that those new, more stringent measures will be available this spring.

In some ways, the bill is different from the bill that the Parliament considered at stage 1. That is because we took account of the views of the Parliament and of the Justice 2 Committee. The committee spent a great deal of time collecting evidence and scrutinising the bill. As a result of that, the bill will have a significant impact on our criminal justice system. It will make Scotland a safer place and will give additional protection to the vulnerable in our community. I commend it to the Parliament.

I move,

That the Parliament agrees that the Criminal Justice (Scotland) Bill be passed.

**The Deputy Presiding Officer:** A long list of members wish to take part in the debate, so I ask everyone to keep tightly to the three-minute time allocation.

11:20

**Roseanna Cunningham (Perth) (SNP):** At stage 1, I expressed my concern that the bill represented a return to the bad old days of the law reform (miscellaneous provisions) (Scotland) bills. The past two days have proved my point. As we have worked through the amendments, we have jumped between sections that do not seem to relate to one other. The members of the Justice 2 Committee deserve praise for their hard work in following those many jumps in committee.

I am pleased that the passing of the bill will mean the introduction of lifetime supervision of sex offenders, which was a key recommendation of the MacLean report and has been SNP policy since long before that report. George Foulkes might have felt that the MacLean report's recommendations were "uncosted nonsense", but I am pleased that Labour members of the Scottish Parliament seem to disagree with the ex-minister.

Drugs courts are another SNP policy that was at first derided, and then adopted, by the Executive parties. The bill acknowledges the success of the operation of the pilot courts, the first of which opened in Glasgow in November 2001. That was an important step.

The introduction of victim statements to our judicial process means that the court will hear of the impact that a crime has had on the victim. Issues remain to be addressed. I hope that the pilot project will be evaluated and that, if it is not successful, the idea will be dropped or seriously amended.

The most contentious part of the bill was undoubtedly section 43, which deals with the physical chastisement of children. There has been considerable change on that since the bill was introduced. There are still problems to do with the practicality of the provisions, rather than the message that they send. Everyone concentrated on the message, but the practicalities are equally important. Only time will tell who was right.

As I indicated earlier, I continue to have concerns about police custody and security officers.

One of the consequences of such a wide-ranging bill is that it leaves the door wide open to an even more wide-ranging set of amendments. The amendment that Donald Gorrie lodged to introduce the concept of offences aggravated by religious prejudice was a prime example. Although I do not believe that the bill's provisions on that will achieve what the minister, the Executive or Mr Gorrie wants them to achieve, I do not doubt their sincerity, nor do I oppose their worthy intentions.

In conclusion, the bill contains many changes for which my party and I have been pushing for some time—in some cases, since long before members of the Executive parties had been won over. In spite of the fact that the bill has some failings, it has the support of the SNP.

11:23

**Bill Aitken (Glasgow) (Con):** The minister mentioned some aspects of the bill that are highly satisfactory and for which we commend the Executive. Other aspects, such as civilianisation and victim statements, have proved problematic.

We acknowledge that ministers have made a genuine and sincere effort to satisfy us. Although their efforts have not been entirely successful, they have been sufficient for us to allow the bill to progress.

We cannot give our full support to the bill not so much because of what it contains, but because of what it excludes. The bill is a classic illustration of a lost opportunity. The bill could have made the streets of Scotland safer, could have provided a more realistic approach to our criminal justice system and could have supported those who are in the front-line battle against crime. Under all those headings, it is a lamentable failure.

Let us be quite blunt. On law and order issues, the Executive, from the First Minister down, is all talk and no action. In spite of constant press releases that promise tough measures and threats to get tough on crime, there has been total inaction, to the extent that public cynicism is at an all-time high. The only worthwhile innovation that the Executive has introduced has been the fast-track youth courts. Time will tell how effective they are, but the concept is a good one.

The much-vaunted fast-track children's hearings will remain a fast track to nowhere until some realism is introduced into the system. Given the restricted disposals that are available and the gross underfunding, it is not surprising that the system is totally inept at dealing with offenders; nor is it surprising that one third of children's panel members resign every year. They are no doubt disappointed that their genuine and worthwhile efforts to make a contribution are frustrated by the Executive's lack of realism.

Drug misuse has become almost endemic in Scottish society. Although that is not the fault of the Executive, the fact that drug misuse is almost as prevalent in prisons is the Executive's fault.

The streets of our cities provide tangible evidence of the Executive's failures. Shops have security guards who stand outside and patrol inside, except when they are chasing shoplifters along the road. The public receive frequent approaches from spaced-out beggars, and gang fights are not infrequent. At the moment, Glasgow city centre is probably being policed by no more than six officers.

The bill does not address the wide dissatisfaction about alternatives to custody. Little work is done during community service, fines are not paid and there is a significant lack of action against those who fail to turn up in court. In spite of members' concern about the number of people who are in prison for non-payment of fines, the Executive fails to deduct money from benefits.

It is extremely ironic that an Executive that is prepared to send parents to jail for shaking their

child in a non-harmful manner should bottle out and balk at the prospect of taking realistic measures to make the streets of Scotland safer and Scotland's citizens more secure in their homes.

11:26

**Pauline McNeill (Glasgow Kelvin) (Lab):** I begin by thanking the Justice 2 Committee very much for its hard work. There was not a single issue that the Parliament was concerned about that the committee did not attack fiercely. It examined the bill thoroughly.

I also thank the Executive, because it has been very responsive to all the concerns that we raised. I have a 2in-thick file of all the correspondence and exchanges with the Executive. Anyone who looks through that file will see how responsive the Executive has been.

I disagree with Mr Aitken's view that the bill represents a lost opportunity. The bill contains some key themes that will make the streets of Scotland safer. It is worth amplifying those.

The first theme is what has been done to turn round victims' place in the system. Victim statements have been discussed, but I draw the Parliament's attention to section 15, which gives victims the right to receive information on the release from prison of an offender.

Many of us have dealt with constituents who have always argued for that right. They have not known when someone who attacked them and served time in prison would be released. At present, there is no such right to information. The bill will give victims that right. In many ways, that provision is more important than the provision on victim statements.

Johann Lamont should be commended for drawing the attention of the committee and of the Parliament to anti-social behaviour. The bill will turn round the criminal justice system's attitude to anti-social behaviour. Anti-social behaviour is on the spectrum of crime; it is not simply a question of being a bad neighbour. People who do not conduct themselves properly might also be criminals.

As I care deeply about human trafficking, I am pleased that the bill makes it a crime, although I know that the relevant section relates only to enforced prostitution. I note the Executive's intention to take further action on child labour.

Many members are concerned about the operation of the policy on custody officers, which is about freeing up resources. The operation of that policy should be tested in the future to show that there is a good reason for it.

The bill is not simply a bill of miscellaneous provisions; it is a bill that contains many important themes. The citizens of Scotland will recognise that it will make a great contribution to their safety and that it is a good piece of work.

**The Deputy Presiding Officer:** I will call as many members as I can.

11:29

**Mr Duncan Hamilton (Highlands and Islands) (SNP):** I, too, support the bill, although I do not do so unreservedly. I thank my colleagues on the Justice 2 Committee. As I come to the end of my time in the Parliament, I can say that it has been a genuine pleasure to be a member of the committee. The committee worked hard and effectively on the issues.

Although the bill contains many measures that we support, areas of major concern remain. I am still dubious about the principle and the operation of victim statements.

Despite the movement from the Executive, the provisions on the physical punishment of children leave us with questions of definition that we have been unable to resolve. Donald Gorrie's provisions on sectarianism, although worthy in aspiration, were described by the police as unworkable and by the sheriffs as unnecessary, yet the Parliament took it upon itself to introduce them. I also remain slightly confused about the role, function and training that is to be given to police custody and security officers and about the cost implications. There are major concerns about the bill.

The passage of the bill has shown both the strength and the weakness of our legislative process. The committee worked on a cross-party basis and extremely hard. After examining controversial evidence and taking evidence from a wide range of people, we produced a considered and mature report. It was unfortunate that on some issues—most notably on sectarianism at stage 3—much of that evidence was put to one side in a wave of emotion. That is not helpful. All of us in the chamber may feel strongly about the issue, but good legislation is based on evidence, not exclusively on emotion.

The bill has some good measures, which is why the SNP and I will support it. However, looking ahead to the future, I say to members that we need to try to have as robust a legislative process as possible. We should replicate what happened in the Justice 2 Committee not only in our committee meetings but in our plenary sessions as well.

11:31

**Johann Lamont (Glasgow Pollok) (Lab):** I welcome the opportunity to welcome the passing

of this important bill. I, too, congratulate the Justice 2 Committee—in particular the convener—on its hard work and on its rigorous and diligent approach to such an important piece of legislation. That work gives the lie to the idea that we sit here and do as we are told, because it shows that we are actively involved in the process of improving and changing legislation.

The bill is important. We all understand the importance of the people of this country having faith in the criminal justice system. There are serious consequences for us all if that faith is broken down. We all have stories from victims of crime of their experience of the crime and of the courts system, which seems—perversely—to compound the distress that people have experienced. The bill's commitment to improving the rights of victims is significant as it will make a real difference not only to victims' experience of the system but, I hope, to the attitudes of those who are charged with running that system.

As others have highlighted, there is frustration that the bill has been characterised as being about smacking, or sending 16 and 17-year-olds to the children's hearings system or sectarianism. I understand that those who report on our work must sometimes use shorthand but, given that we all abhor spin, it would be good if there were a little more depth to the scrutiny and analysis of substantial pieces of work such as this.

The Parliament has wrestled with significant issues, but I believe that our focus has been on what will work. The concerns about the smacking provisions were not because people want children to be beaten. The concerns about the sectarianism provisions were not because people are in favour of sectarianism. We must recognise when we make legislation that we need the space to be able to ask whether or not something works, instead of being concerned about how our position might be characterised elsewhere.

I congratulate the Executive on its willingness to listen and to change. It has certainly listened to Labour back benchers on the issue of 16 and 17-year-olds. I am pleased that the Executive has listened so hard, especially to those who wanted more action on anti-social behaviour. It is profoundly depressing that, when the Parliament's committees and back benchers do their job, people settle for lazy language about U-turns and humiliating defeats. The bill has been strengthened rather than weakened by the Executive's willingness to listen. The Executive's work has been strengthened rather than weakened by its willingness to respond to the points that were raised.

I congratulate the Executive and all those involved in the nitty-gritty work on the bill. I look forward to the bill making a real difference in people's lives.



11:34

**Lord James Douglas-Hamilton (Lothians)**

**(Con):** It is regrettable that there has been insufficient time to give full attention to many of the issues that were before the committee. To give just one example from this morning's debate, the police use of firearms was not even discussed. That is a grave defect in our system. I note that when the Deputy First Minister was challenged on television last night, he recognised that that issue needs to be addressed. I put down a marker that our procedures will need to be looked at so that such matters are not neglected in the future.

We won a number of important victories in the bill. First, we were happy to see go the ludicrous pilot scheme that would have sent 16 and 17-year-olds to children's hearings. Secondly, there was the issue of bail for convicted murderers. The Deputy First Minister indicated that although he was satisfied with the existing arrangements, he was certainly not prepared to defend having granny murderers roaming the streets. The amendments that were introduced give greater protection for the public and are a victory for common sense. Thirdly, the provisions on smacking that were totally unenforceable were removed, although it is our view that unnecessary provisions remain.

Some of the amendments that we proposed were rejected. For example, our proposal that fines should be taken from benefits could have reduced the number of people going to prison for fine default and increased the proportion of fines collected. Another amendment that was rejected was our proposal that a greater range of disposals should be made available to children's hearings. Thirdly, we wanted more honesty in sentencing. We are not surprised that our medicine was too strong for the Administration, but we are pleased that, as a result of vigorous and successful campaigning, the worst excesses of the bill have not been allowed to stain this future justice act.

The bill began as the Deputy First Minister's flagship bill, but he has had to make so many U-turns during its passage that it can now be described as a bill of the Parliament rather than of the Executive. Although the bill does not go as far as we would like and still has grave imperfections, it represents a considerable improvement on what went before.

11:36

**George Lyon (Argyll and Bute) (LD):** As the Deputy First Minister said, the bill is a substantial piece of legislation, which will have a major impact in improving Scotland's criminal justice system.

The bill has grown substantially during the months in which it proceeded through the Justice

2 Committee. Even at stage 2, extra provisions were still being added to the bill even as the committee discussed it. On a number of occasions, the committee found itself in the difficult position of being asked to consider extra provisions, such as section 59A on sectarianism, at very short notice and with little time to take evidence. However, by increasing the number of committee meetings, we made the time to ensure that the provisions were properly probed and scrutinised to the maximum effect.

Although some of the bill is of a technical nature and is aimed simply at tidying up existing legislation, substantial sections will make a major contribution to improving the lot of ordinary Scots. The introduction of better rights for victims, under part 2 of the bill, is a major step forward in trying to ensure that victims are kept better informed and have their voice heard in the criminal justice system. As Duncan Hamilton said, it will be interesting to see the outcome of the victim statements pilot. I hope that a future justice committee will reconsider the matter closely, as there were concerns about whether the process would deliver its objective.

I believe that the right balance has been struck in the provisions on the physical punishment of children. The committee concluded that there was no convincing evidence to justify a blanket ban on smacking under-threes. I fully supported that view. However, the committee supported the rest of section 43, which clarifies the defence of reasonable chastisement. Section 43 sends out a strong signal from the Parliament that blows to the head, shaking a child and hitting a child with an implement will not be tolerated. I believe that that is the right approach to take.

Finally, I warmly welcome the amendments to the Wildlife and Countryside Act 1981, which will make the prosecution of wildlife offences much easier. Wildlife crime is a major problem in my constituency. The provisions are a major step forward in tackling the problem and will be widely welcomed by my constituents in Argyll and Bute.

11:39

**Dr Richard Simpson (Ochil) (Lab):** I join others in congratulating the minister and the committee on the way in which they have tackled the issues in the bill.

The Justice 2 Committee's scrutiny of the new order for lifelong restriction and of the risk management agency has been particularly valuable. Those issues are hugely difficult and, as the MacLean committee showed, they are being grappled with by many countries. I believe that the innovative approach that Scotland is adopting today will have a substantial effect not only on the

most serious and violent offenders, to whom the order for lifelong restriction will apply, but on sexual offenders at all levels.

I cannot stress too strongly the risk that is posed by current and potential sexual offenders. The recent internet case has shown all too clearly that probably tens of thousands of people are offending at the level of child pornography. The 1,800 people who are currently on the register are likely to grow in number to 10,000 before the numbers stabilise. Alongside the stabilisation of the valuable work at Peterhead prison, the bill makes an important contribution to the treatment of those who have been sentenced to four years or more.

However, we will have to do much more. The next priority must be to integrate the assessment and management of the 600 offenders who receive shorter or even non-custodial sentences and who are not eligible to go to Peterhead prison. The police, prisons, criminal justice, social work and housing functions must be integrated even more closely if we are to be effective in protecting our children and our vulnerable citizens.

We must also tackle adolescents who demonstrate inappropriate sexual behaviour. We must also seek to prevent offending behaviour from moving through the cycle from deviant thinking to fantasy to internet pornography to reality to repeat offending with self-justification. In the near future, we need to introduce the "Stop it Now!" programme, which is promoted in America for those who are in the pre-offending category.

There are many excellent measures in the bill, but time is too short to praise them all. I welcome the modest advance in protecting children from being hit, but I regret the failure to ban the hitting of babies and toddlers under the age of two, which is a measure that had the support of the majority of parents. Too many parents still believe that it is all right to smack babies of under one year.

At least those in the front line who support children day in, day out will be able to give three clear messages to parents: that it is illegal to hit a child on the head; that it is illegal to hit a child with an implement; and that it is illegal to shake a child. That is a substantial advance.

However, Scotland's failure to join the growing number of European countries that have banned the hitting of children altogether is indeed a failure. Too many young men still grow up believing that physical violence is the most appropriate way to deal with disputes. It is wholly unacceptable that 17 per cent of young men continue to believe that hitting women is appropriate. A ban on the hitting of children would begin to eliminate the use of violence as a mechanism in our society. We have much more to do, but the bill is an excellent start and I welcome it.

**The Deputy Presiding Officer:** If Irene McGugan will restrict herself to two minutes, I will be able to give two minutes to Brian Fitzpatrick, who will be the last member to speak.

11:42

**Irene McGugan (North-East Scotland) (SNP):** I will confine my remarks to the physical punishment of children.

The bill is a step in the right direction, but it is a small step. As Richard Simpson suggested, it pales into insignificance in comparison to the actions that are being taken by an increasing number of countries throughout the world to end the hitting of children.

Most members know that I fully support all the organisations that formed a view of the damage caused by the physical punishment of children. I support the aim of those organisations to promote the idea that it is no more acceptable to smack a child than it is for one adult to hit another. That aim is based on the principle and the very strong conviction that children also have human rights.

On a number of occasions in the chamber we have discussed the proposal for a commissioner for children and young people, which is progressing with all-party support. Members should be reminded that the role and remit of the commissioner is underpinned by the United Nations Convention on the Rights of the Child, which is the same convention that states that Governments are required to protect all children who are in the care of their parents from all forms of physical and mental violence. We need to take action to comply with the recommendations of the United Nations Committee on the Rights of the Child. The provisions that we are endorsing today do not do that.

The bill is not the end of our work on the subject. I appeal to every member who is returned to the Parliament in May to ensure that work continues as a matter of urgency on a public information campaign to advise people of non-violent alternatives. In other countries, such campaigns have brought about a real change in the attitude towards hitting children.

I seek an assurance from the minister that the physical punishment of children will be revisited soon with a view to adopting legislation to remove the reasonable chastisement defence and to prohibit all corporal punishment in the family. It is very important that we send out a very clear signal that no level of violence towards children is socially acceptable. I hope that a future Scottish Parliament supports that aspiration.

11:44

**Brian Fitzpatrick (Strathkelvin and Bearsden)**

**(Lab):** As Johann Lamont mentioned, the Criminal Justice (Scotland) Bill represents the culmination of a lot of hard work by the subject committee and occasional visitors to the committee. The progress that was made on the issues of lifetime supervision orders, fast-track youth procedures, anti-social behaviour, the risk management agency and victim statements give the lie to Bill Aitken's rather weary and predictable comment on the bill. The people who contribute their time to children's panels do not deserve the unfair gloss that Bill Aitken put on their activity. I urge him to reflect on that.

An important security was achieved on the issue of physical chastisement for Scotland's most vulnerable youngsters. Some of the opposition in respect of the shaking of children stands in the face of and disregards the obvious medical evidence. I am glad that members had the courage to stand up to that behaviour.

On the statutory aggravation of an offence by religious prejudice, I rehearsed the contra argument in front of the Justice 2 Committee and I will not repeat it now. As I listened to Donald Gorrie yesterday, my support waned—after two years' work, he seemed to demonstrate less understanding of the issues. I support the movement on that issue for reasons that were not advanced by Donald Gorrie. I do so for reasons that relate to the collection of data and, more important, to the notice of previous convictions. People will no longer be able to pretend that they have not participated previously in their behaviour or say that the offence is a first-time event. That is a real achievement.

Bill Aitken lodged a well-intentioned but badly drafted and defective amendment on the subject of police officers. I was delighted to hear the words from the minister about improving on that position.

Although there is no time for victory laps—nor should there be victory laps—the bill represents real progress and should be welcomed for that reason.

**The Deputy Presiding Officer:** My regrets to the four members whose names remain on my screen, but the clock has beaten us. I call Hugh Henry to wind up the debate.

11:46

**The Deputy Minister for Justice (Hugh Henry):** Like the minister, I thank all those who worked so hard on the bill and the organisations and individuals who provided written submissions and gave oral evidence to the committee. Jim Wallace was accurate in his thanks to the Justice 2 Committee, which worked so hard on

scrutinising the bill. Its members raised fundamental and important issues in addition to making a number of suggestions that helped to improve the final outcome.

This debate is the culmination of a process of policy development. As the minister said, it included wide consultation, the publication of two white papers setting out our proposals and debates in the Parliament. We are not talking about hurried or hasty legislation. There has been an interesting and lively debate, which has reflected the diverse nature and importance of the provisions of the bill as well as concerns, doubts and anxieties that are to be recognised.

The debate has also reflected the determination of the Parliament to have an improved system of criminal justice in Scotland. It has shown that, despite some caveats, there is wide agreement on the overall aims of the legislation, which are to deliver better public protection, to promote more effective sentencing and to keep the law up to date. Johann Lamont rightly said that the willingness of people to engage in the process is a testament to the Parliament. In echoing her comments, I believe that the willingness of the Executive to listen and to respond is a strength of the parliamentary process and not a weakness.

I want to address a couple of comments that were made by members of the Conservative party. Lord James Douglas-Hamilton talked about the Conservatives' medicine being too strong. He is not correct, as the problem was that the Conservatives' medicine was wrongly prescribed and incorrectly mixed. The Conservatives made a number of proposals, some of which we accepted and others of which contributed to changes that were made. However, some of their proposals contained errors, including on reserved issues—Lord James Douglas-Hamilton referred to that. There were also some weaknesses in the Conservative proposals. The Conservatives' medicine was wrongly composed and would have been completely ineffective. Lord James Douglas-Hamilton's comment was inaccurate.

The bill should not be seen as an opportunity lost and we should not look to diminish or demean the bill on the basis of the remarks that Bill Aitken made. It is not an opportunity lost to tighten up the law on child pornography and on the trafficking of people for prostitution. It is not an opportunity lost to extend rights to victims or to crack down on wildlife crime. It is certainly not an opportunity lost to toughen up measures to deal with the anti-social behaviour that is scarring many of our communities in Scotland.

All in all, the bill represents progress for the Scottish Parliament and for the people of Scotland. Many measures in the bill will have a great impact on the wider community. Many good

things have come out of the bill, but it is right to say that although it marks our progress, the Parliament and its Administration are not complacent. There is much more to do to tackle crime and anti-social behaviour in Scotland, and the bill is the first of a number of measures that we intend to introduce to make Scotland a safer and more secure place.

## **Building (Scotland) Bill: Stage 3**

11:51

**The Deputy Presiding Officer (Mr Murray Tosh):** Members should have the usual papers for the next item. I shall move straight to the first group of amendments, on building regulations and broadband communication technology, and call Kenny MacAskill to speak to amendment 1.

### **Section 1—Building regulations**

**Mr Kenny MacAskill (Lothians) (SNP):** In speaking to amendment 1, I want to ask three questions. What are we trying to do? Why are we trying to do it? How can we achieve it? My fourth point will be my response to what I understand to be the minister's position—if I am wrong he will, no doubt, correct me.

First, what are we trying to do? The purpose of the bill is to ensure that the Scottish economy can compete in the 21<sup>st</sup> century. That is accepted throughout the chamber and by all parties; I am certainly not suggesting that there is any monopoly on the desire to ensure that broadband is rolled out. We must ensure that broadband is rolled out as speedily and as well as possible. The SNP believes that the bill is one method of doing that.

Amendment 1 is to some extent not party political. It is an industry amendment. Those who have been advising and assisting me come not so much from the ranks of my political party, but from those who represent the interests of people trying to roll out broadband technology in the commercial world. In particular, I record my thanks to David Flint of MacRoberts Solicitors and to Polly Purvis of ScotlandIS.

Why are we trying to achieve the aims? Although it is clear that there is, among those who have political power, a desire to see broadband technology being taken up, and among the populace a desire to use broadband, significant difficulties are being experienced by many in trying to achieve that end. Hardly a member will not be aware of the difficulties, and the problems are not restricted to rural areas or to old houses; they encompass all of our communities—those that are adjacent to major urban conurbations and those in much more rural areas. It is not simply a matter of not having access to broadband technology; some people have the additional problem of being able to gain access only at an unaffordable price. Both elements must be addressed.

The SNP believes that the bill is an opportunity to balance the current debate about strategy. Do we achieve roll-out of broadband technology by stimulating take-up or by providing the right infrastructure? It is a matter of balance. We are

stimulating take-up, as can be seen in television advertisements, albeit that they come from the commercial sector, including companies such as BT. However, we are also required to ensure that we roll out the infrastructure for those who want the opportunity to use broadband—those who are excited and ignited by that desire.

We need a strategy and, in many respects, we concur with the Executive's strategy. Aggregation of the public sector is sensible and it is the way in which we must proceed. However, when I discuss that with members of the industry, the subject is seen as a no-brainer. We have an opportunity at the outset, as we build developments—whether commercial or residential—to ensure that we do not replicate the mistakes that we have made previously. In the past, we have seen a short-term approach being taken, with short-term savings being made, but we have ended up having to pay more. We can now ensure that we lay the foundations at the beginning.

How will we achieve our aims? We are trying to make it clear from the outset that as a legislature we believe that Scotland's future is about being a high-tech, rather than a low-wage, economy. That means that we must acknowledge the importance of rolling out broadband technology, which must be included in any new construction, whether residential or commercial. We must recognise that to achieve that, we will have to empower the Executive in due course. We must also recognise that what might be appropriate for urban Scotland might not be appropriate for rural Scotland, and that what should be compulsory for a certain number of houses in an urban development might not be appropriate for Wester Ross.

We must recognise that technology will be different in the future. In many areas of urban Scotland, we might insist upon the use of fibre optics, but that would be unaffordable for some areas of rural Scotland. However, it could be ensured that some form of wireless technology is provided. Moreover, we must accept that the rate of change in technology is fast. Since the Parliament has been in situ, we have seen changes in ADSL; its ability to deliver broadband technology has improved. We should therefore empower not just the people but the Executive so that as things change and develop we ensure that we see delivery throughout the country.

I shall now comment on what I understand to be the Executive's position, which is that it is prepared to accept amendment 2, but not amendment 1. We welcome that because it will allow us to pursue our aims. My view is best explained in an e-mail that I received from those who have been advising me. They say:

“an explicit reference is an opportunity to distinguish broadband as more than just a convenience and would

help reinforce the Executive's commitment to strategies such as Connecting Scotland: our broadband future.”

I accept that if we proceed by simply accepting amendment 2, but not amendment 1, we can deliver. In support of amendment 1, however, I say that it would put the imprimatur of this legislature on the fact that we want to ensure that broadband is rolled out. More important, it would show that we see broadband as being important for our economy and our society as we compete in the 21<sup>st</sup> century world. Agreement to amendment 1 would lay down a marker and make it clear that Parliament wants Scotland to compete with other nations, whether Singapore, Finland or wherever.

I move amendment 1.

**John Scott (Ayr) (Con):** We welcome amendments 1 and 2 on the introduction of broadband. They represent a worthwhile idea, and Kenny MacAskill has said it all—perhaps more. We must consider the provision of future services, as well as existing ones. That broadband will be an essential service in the future is beyond doubt, and we support the principle that lies behind amendments 1 and 2. However, we feel that amendment 1 is in the wrong place, so we shall agree only to amendment 2.

12:00

**Stewart Stevenson (Banff and Buchan) (SNP):** We have used building regulations to address social inclusion issues for people who are disabled, and properly so. I welcome that. The extension of building regulations to cover business and social exclusion that would arise if we do not have access to broadband is another way in which we can use building regulations.

The Executive strategy of experiments in the Highlands and Islands and the Borders, based as it is on aggregated public sector demand that draws together all the demand that exists, can be augmented only by private sector aggregation of demand, which could flow from the amendments.

Broadband is being delivered in a variety of ways throughout Scotland. For example, the BT ADSL initiatives—which are confined largely to large conurbations and cities—are welcome but will never solve the problem. The new second technology—known as symmetric digital subscriber lines, or SDSL—will be available only in cities. Scottish and Southern Electricity plc has launched initiatives in Campbeltown and Crieff that are based on the delivery of broadband through the electricity supply. That approach is very much a bodge: although it works and is useful, it is associated with potential risks of radiation emission that are probably being managed.

Communities throughout the UK are starting to take the initiative on the matter—32 community

ventures have to date been set up. For example, in Glasgow, people are fed up with the present arrangements and are starting to make their own. A Scottish amateur radio club is also promoting similar initiatives throughout the country. I mention those not merely because they are interesting but because, more fundamentally, they will lead to a proliferation of aerials and masts that will disfigure buildings if their construction is pursued in the absence of other initiatives. When we construct buildings and houses, it is important that we pay a small incremental cost at that point and that we build in the conduits that will enable cable to be installed later.

The issue in Scotland—as elsewhere—is the local loop. There is a lack of connection between the point at which the broadband service has to be used and the point at which it is aggregated into the large communication pipes that then connect to the internet and the rest of the world. Amendment 1 is useful and will address that issue. I am happy to support it.

**Nora Radcliffe (Gordon) (LD):** Amendment 1 raises a very important point, although the intention behind it is perhaps covered by the phrase

“furthering the achievement of sustainable development”

in section 1(1)(c). That said, we must not lose sight of the fact that, as far as new build is concerned, it is very easy to think ahead and to make provision for the later installation of broadband technology. Building regulations can address that issue.

However, the roll-out of broadband through the copper-wire network and ADSL technology is only a short to medium-term approach. Any long-term approach will definitely require a fibre optic system, because of its greater capacity and symmetrical nature. In any case, we will certainly need a symmetrical system for business and commercial uses, because large amounts of files will have to be sent as well as received.

Section 1 refers to

“furthering conservation of fuel and power”,

Given that, has the Executive thought about whether we can use the opportunity that is provided by refurbishment or extension of buildings to include as part of the whole deal energy conservation measures for the parts of buildings that are not being extended or refurbished? It would be a shame to miss such opportunities, although I appreciate that any such approach would be tricky.

**Christine Grahame (South of Scotland) (SNP):** Members have already mentioned that the two pathfinder areas for broadband are the Highlands and Islands and the south of Scotland.

However, I understand that there has to be a 50 per cent trigger for commercial companies to bring in broadband. Such a target cannot always be met, particularly in certain parts of the Scottish Borders. In such rural areas, commercial forces might not deliver in that respect.

However, broadband is as much a part of the commercial infrastructure as are good roads or railway links. That fact was reflected at a meeting that several members had this week in Eyemouth with the Federation of Small Businesses. As a result, I support Kenny MacAskill in his attempt to empower ministers in this regard because that would assist economic development where there is new build or, more important, where there are conversions. For example, such a conversion was carried out at the Ettrick Riverside business centre, which is struggling to deal with e-commerce.

The minister should also note that we are talking about a discretionary power rather than a mandatory power to make building regulations. On that basis and on the basis of Mr MacAskill's comments, I ask the minister to reconsider his attitude to amendment 1.

**The Deputy Minister for Social Justice (Des McNulty):** I am very grateful to Kenny MacAskill for lodging amendments 1 and 2 for consideration. I agree that broadband is an important issue for all the reasons that he has highlighted and I accept that it is appropriate to reflect that in the bill. As a result, I will be happy to agree to amendment 2, which will add broadband communication technology to the list of matters for which building regulations may make provision. The bill will, in that case, allow regulations to be made for the provision of services, fittings and equipment—which could include broadband technology—and would give practical effect to progressing the matter.

However, I do not, for three reasons, believe that amendment 1 should be agreed to. First, the purposes of regulations that will be made under the bill, along with the bill's other main elements, are the product of lengthy and comprehensive consultation. The bill has attracted a large measure of consensus, not just among the various professional and business communities that are involved, but during the parliamentary scrutiny process. Uniquely, for such a significant and detailed bill, there were no divisions at stage 2. It would not be appropriate to make the change that is proposed by amendment 1 at this stage in the process, especially because amendment 2 includes broadband in the list of matters that regulations can cover.

Secondly, the list of purposes in section 1 has been drawn in general terms to encompass the bill's wider scope. However symbolic it would be to

include broadband in that list, I believe that it would be inappropriate to add a specific purpose without then revisiting a much wider range of specific issues that might have an equal or even greater claim for inclusion. An obvious example is disabled access, which was discussed by the Transport and the Environment Committee at stage 2. That is a vital part of the building standards system and it is imperative that it remain at the forefront of the regulations. We shall continue to ensure that that happens; however, despite its importance throughout the range of building regulations, the committee accepted the argument at stage 1 that disabled access does not require specific mention. We want to adhere to such a principle.

Thirdly, the purposes for which building standards might be made are designed to be relevant for the bill's lifetime. The legislation on which the current system is based is 44 years old, and it is not inconceivable that the bill once enacted will similarly last for decades. I understand the wish to include in legislation a reference to important current technology; however, given the rapid speed of technological development, it is possible that such a reference will be overtaken by the market and might quickly become anachronistic.

I repeat that, for the reasons that I have given, I am happy to accept amendment 2 to give practical effect to what Kenny MacAskill seeks. However, I ask him to acknowledge that we are moving towards his position and to seek to withdraw amendment 1.

**Mr MacAskill:** I am grateful for the minister's comments. I should point out that I am not about to make a tautological argument; instead, there is a matter of the emphasis that we should put in the bill.

I accept that all parties are trying to head in the same direction. However, we should make a bold public declaration at the outset about how we view matters. The minister's comments about the lifetime of the bill are actually an argument for including a reference to broadband in section 1. After all, amendment 2 would give the Executive the power to acknowledge changes in technology. It would be no more absurd to accept that broadband technology will change over 44 years—indeed, with improvements in ADSL, it already has—than to accept that there will be changes in the delivery of water and electricity supplies. We view those issues as fundamental; they have not been left out of previous legislation simply because technology might change. Indeed, in the period between the enactment of the Building (Scotland) Act 1959 and the passage of this bill, the provision of other public utilities and supplies has varied enormously.

I will press amendment 1. My argument is not tautological. I simply want to put down in clear, bold black and white that this Government and legislature believe that broadband is just as vital as any other public utility as far as provision to residential or commercial developments is concerned.

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

**Members:** No.

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

#### FOR

Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

#### AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lamont, Johann (Glasgow Pollok) (Lab)

Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 24, Against 66, Abstentions 0.

*Amendment 1 disagreed to.*

### **Section 7—Verifiers and certifiers**

**The Deputy Presiding Officer:** Amendment 3 is grouped with amendments 4, 38, 41, 42 and 49.

**Des McNulty:** This group of amendments follows amendments at stage 2 that will allow ministers to approve schemes and thereby entitle members of the schemes to act as approved certifiers. The amendments will align those provisions better with the provisions for directly approved certifiers. They will also make some necessary amendments to references to sections in the bill, following amendments that were made at stage 2.

I move amendment 3.

**John Scott:** Amendments 3 and 38 are worthwhile amendments in that they will give ministers necessary powers to withdraw approval of schemes as well as to grant approval of them. We welcome those two amendments in particular,

but we also welcome the other amendments in the group.

*Amendment 3 agreed to.*

*Amendment 4 moved—[Des McNulty]—and agreed to.*

### **Section 9—Building warrants: grant and amendment**

**The Deputy Presiding Officer:** Amendment 5 is grouped with amendments 6, 7, 9, 10, 12, 13, 14, 22, 23, 24, 43, 44 and 45.

**Des McNulty:** This group of amendments relates to the introduction of two new sections to the bill on continuing requirements. I advised the Transport and the Environment Committee at stage 2 that I would lodge the amendments at stage 3.

Amendment 22 is probably the most significant amendment. It will introduce a new section that will allow verifiers—the local authorities in the first instance—to impose continuing requirements in respect of any building for which a building warrant is granted, or a completion certificate accepted, where there has been no building warrant.

Section 2 will already permit building regulations to impose continuing requirements on all buildings. The reason for allowing verifiers to do so is that, under the new system, building warrant applications will be able to present a range of solutions in order to meet the requirements of the building regulations. Any continuing requirements that might be imposed will therefore relate to the particular solution that is presented and cannot be anticipated in building regulations. For example, where the owner of a rural house chooses to install a septic tank rather than go to the expense of connecting to mains drainage, it is crucial that the tank is maintained so that it continues to meet the requirements of the regulations. A continuing requirement might then be imposed to place a duty on the owner to carry out such maintenance.

Amendment 23 will introduce a new section that will allow continuing requirements that have been imposed by verifiers to be varied or discharged if they are no longer needed.

Amendments 5, 6, 7, 9, 10, 12, 13, 14, 24 and 43 to 45 are consequential to amendments 22 and 23. Various, they will oblige a verifier to send a copy of any continuing requirements imposed by them—either through the building warrant or completion certificate—for registration on the building standards register; they will allow doubts between the verifier and the applicant about the need for continuing requirements to be referred to Scottish ministers; they will provide that any view that is expressed by ministers on such an issue must be taken into account by a verifier; they will



allow a continuing requirements enforcement notice to be served on owners who fail to comply with such requirements; and they will allow a verifier's decision to impose continuing requirements or to refuse to vary or discharge them to be subject to appeal to a sheriff by the owner.

Amendments 6 and 13 will oblige verifiers to inform owners when continuing requirements have been imposed by verifiers. They will also oblige verifiers to inform owners of the granting of a warrant itself, subject to warrant or acceptance of a completion certificate. Amendments 7 and 14 are consequential to that.

I move amendment 5.

**John Scott:** We welcome this group of amendments. Although they were not introduced at stage 2, the matters have been well discussed in evidence-taking sessions and I welcome the paragraph about those matters in the letter from the minister.

From our perspective, we welcome the flexibility of design that will be introduced into the building regulations by the new approach, but from that flows a need for continuing requirements; the amendments will address that need throughout the bill. We share concerns, however, that were expressed by representatives of the Scottish Association of Chief Building Standards Officers, who stated in their submission:

"The proposed continuous requirements provisions effectively places additional duties on the enforcing authority to maintain an interest beyond the completion stage."

I seek clarification from the minister today on how that burden on the enforcing authorities will be borne over the years. There will be a significant cost for the enforcement of continuing requirements. Although we welcome the intention and flexibility in the bill, it will come at a cost.

Specifically, we welcome the notification and recording processes in amendments 6, 9, 10, 12 and 13. Amendments 22 and 23 detail how continuing requirements will be enforced. We welcome the group.

12:15

**Linda Fabiani (Central Scotland) (SNP):** The issue of continuing requirements is absolutely crucial. I echo John Scott's concerns about the burdens on local authorities and I ask for clarification on that.

**Des McNulty:** I am pleased that there is a broad welcome from Parliament for the move on continuing requirements. As John Scott said, the matter was discussed extensively by the Transport and the Environment Committee and there was a

strong impulse for continuing requirements from the various building agencies. I do not believe that the process of imposing continuing requirements will necessarily involve significant additional resources. I am reasonably optimistic that they can be managed within the framework that has been established to proceed with the bill as a whole. I regard the process as being part of normal enforcement responsibilities. The Executive will monitor the situation as the continuing requirements are introduced and we will be in continuing discussions with local authorities on that basis.

*Amendment 5 agreed to.*

*Amendments 6 and 7 moved—[Des McNulty]—and agreed to.*

**The Deputy Presiding Officer:** Amendment 8 is grouped with amendments 11 and 15.

**Des McNulty:** Amendments 8, 11 and 15 are designed to ensure that there is no doubt about which version of building regulations is referred to in each case throughout the bill.

I move amendment 8.

*Amendment 8 agreed to.*

#### **Section 12—Building warrants: reference to Ministers**

*Amendments 9 and 10 moved—[Des McNulty]—and agreed to.*

#### **Section 13A—Building warrants: limited life buildings**

*Amendment 11 moved—[Des McNulty]—and agreed to.*

#### **Section 16—Completion certificates**

**The Deputy Presiding Officer:** Amendment 62 is grouped with amendments 25, 35, 36 and 63.

**Des McNulty:** Amendments 62, 25, 35 and 63 will provide that, where local authorities undertake work in relation to various notices, they will record that the work has been done. That will ensure that there are no gaps in the records that are kept by the local authorities, and that the records are available to the public.

Amendment 36 clarifies that, where a local authority carries out work to comply with a dangerous building notice, demolishing a building will be an option only when demolition is necessary to complete the work that is required by the notice.

I move amendment 62.

**John Scott:** Amendment 40 would give the bill teeth regarding the evacuation of dangerous

buildings and their occupation. To fine people for not leaving a building after it has been declared dangerous seems to be a heavy-handed approach, however. That ultimate sanction must not, in my view, be overused and it should be adopted only as a last resort. I seek the minister's assurance that that will be the case.

**Des McNulty:** The power is one that the local authorities need and it is up to them to exercise it responsibly. We will monitor the performance of the duties by local authorities. I think that John Scott has perhaps got ahead of himself with his comments.

*Amendment 62 agreed to.*

**Section 17—Completion certificates:  
acceptance and rejection**

*Amendments 12, 13 and 14 moved—[Des McNulty]—and agreed to.*

**Section 18—Completion certificates:  
certification of construction**

*Amendment 15 moved—[Des McNulty]—and agreed to.*

**The Deputy Presiding Officer:** That brings us to the point at which we decided to break.

12:20

*Meeting suspended until 14:30.*

14:30

*On resuming—*

## **Presiding Officer's Ruling**

**The Presiding Officer (Sir David Steel):** Before we begin question time, I inform members that it has come to light that, because of a mix-up in the issuing of temporary voting cards, five of Alasdair Morgan's votes and all of Alasdair Morrison's were recorded wrongly this morning. I hope that the members do not have an identity crisis. I have arranged for the *Official Report* to record the votes correctly.

## Question Time

14:31

### SCOTTISH EXECUTIVE

#### Taxi Fares (Non-payment)

**1. Margo MacDonald (Lothians) (Ind):** To ask the Scottish Executive what means of redress are available to taxi drivers whose passengers refuse to pay legitimately incurred fares. (S10-6484)

**The Deputy Minister for Justice (Hugh Henry):** My understanding is that to accept a taxi ride without an intention to pay could constitute the common-law offence of fraud and would be a matter for the police to investigate. The fare could also be treated as a civil debt.

**Margo MacDonald:** I will get to the nub of the matter. Unfortunately, the City of Edinburgh Council has issued a publication for the taxi trade, which states:

“if a driver decided to carry a passenger to a cash point, police station or the original pick up point they may well be guilty of an offence of confining that person against their will”.

Will the minister make it plain that, if someone refuses to pay a fare, that is an offence and that taxi drivers would be effecting a citizen's arrest should they decide to lock the taxi doors and take the person to the nearest police station?

**Hugh Henry:** I confirm that the ability to make a citizen's arrest is available and that the crime that Margo MacDonald outlined exists. I understand that the City of Edinburgh Council intended to put a notice in the back of taxis stating that non-payment of fares would result in the passenger being locked in the cab and taken to the nearest police station. The police objected to that measure, but both the Crown Office and the Association of Chief Police Officers in Scotland share the view that the practice that is generally employed by taxi drivers—of taking the passenger to a police station, where the passenger either pays up or is reported—is satisfactory.

The matter is for the local authority. I hope that, if need be, the authority will consult the Crown Office and ACPOS and provide guidance and reassurance to taxi drivers, who often face a difficult job.

#### Castle Tioram

**2. Mary Scanlon (Highlands and Islands) (Con):** To ask the Scottish Executive what support is being given in order to ensure that Castle Tioram will remain an asset to tourism and culture. (S10-6473)

**The Deputy Minister for Tourism, Culture and Sport (Dr Elaine Murray):** None at present. Castle Tioram is a scheduled monument that is in private ownership and the maintenance of the castle is the responsibility of the owners. The owners were refused scheduled monument consent for the restoration of the castle and ministers accepted the reporter's recommendation, which was also against the granting of scheduled monument consent following a public local inquiry. The owners have lodged an appeal against that decision with the Court of Session. We have received legal advice that it would not be appropriate to comment further on the matter at this time.

**Mary Scanlon:** Given the importance of Castle Tioram to our mercantile history—it was an important centre during the economic era of the lords of the isles—and the risk of significant further collapse of the building, will the minister urge Historic Scotland to work with the owner to ensure the place of Castle Tioram in Scotland's cultural heritage?

**Dr Murray:** The member will be aware that there are many strong differences of opinion on the future of Castle Tioram, although everyone agrees that the monument is extremely important and that the current situation is extremely difficult. I have discussed the issue with Historic Scotland and tried to get a date for the hearing of the appeal that has been lodged, but we have not been able to ascertain that date. The situation is certainly unsatisfactory, but, after the hearing, we will be able to make progress one way or another.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** Is the minister aware that, as well as having the support of many people in the local community, the proposals for the restoration of Castle Tioram were supported by Scottish Natural Heritage, Highland Council, the Royal Fine Art Commission for Scotland, the Scottish Environment Protection Agency, the Scottish Rights of Way and Access Society and the grand council of the clan MacDonald? Does Historic Scotland's refusal to grant permission show that it is about as responsive to the people of Scotland as Marie Antoinette was to the French peasantry?

**The Presiding Officer (Sir David Steel):** We must be careful, as the case is sub judice.

**Dr Murray:** It is indeed sub judice at the moment. I know that the member has strong views on the matter, as many others do. I say in response to him only that an independent reporter also came out against granting scheduled monument consent—Historic Scotland did not make that decision; the reporter did. Ministers acted on the reporter's advice.

### Aquaculture

**3. Tavish Scott (Shetland) (LD):** To ask the Scottish Executive when it last met representatives of the aquaculture industry and what matters were discussed. (S10-6468)

**The Deputy Minister for Environment and Rural Development (Allan Wilson):** The Scottish Executive meets regularly with representatives of the aquaculture industry to discuss a wide range of issues. The last meeting took place on Monday, when the working group, which I chair, discussed the strategic framework for aquaculture.

**Tavish Scott:** I understand that the minister plans to publish the framework document in March. Will he confirm that he is looking at two specific areas, namely, a one-stop-shop approach for the industry for making applications and the need to bear down on costs as a result of the incredibly intense competitive pressures that exist, given the nature of salmon farming at the moment?

**Allan Wilson:** I confirm that both matters will be the subject of future consideration by the industry, the regulators and all the public bodies that are associated with it. On Monday, the working group agreed that in developing the framework, the issue of a one-stop shop should be revisited in around two years, after the transfer of planning powers to local authorities has been implemented. We are also in the process of developing research into costs to the industry and comparing costs and regulatory and other burdens with those in competitor countries.

**Robin Harper (Lothians) (Green):** Does the minister agree that, in the document in question, the time scales for the revision of locational guidelines are unacceptably long?

**Allan Wilson:** The strategic working group considered time scales, to which we are making a number of amendments. The locational guidelines are reviewed approximately every 18 months and have recently been reviewed. In the circumstances, I do not consider an 18-month time scale for further review to be unreasonable.

**Stewart Stevenson (Banff and Buchan) (SNP):** Does the minister recall that last year, the Danes caught 1.5 million tonnes in their pernicious industrial fishery and that a significant part of that catch was for the preparation of food for aquaculture? While I recognise that the feed sustainability study is already under way, will he tell us what progress is being made to develop alternative supplies of food so that white fish in the North sea do not starve and neither do our farmed fish?

**Allan Wilson:** We debated that matter at the most recent meeting of the Transport and the

Environment Committee. It is critical that the sustainability of feed stocks for aquaculture expands as we hope it will. The problem with the science to date is that scientists have been unable to replicate the omega oils that make salmon in particular so nutritious. Research and development is under way at a global level to address such problems so that sustainable feed stocks from renewable sources can replace the wild stocks that are currently used.

### Access Routes

**4. John Farquhar Munro (Ross, Skye and Inverness West) (LD):** To ask the Scottish Executive what action it will take to maintain access routes in the light of any concerns of landowners in relation to liability for such routes. (S10-6494)

**The Deputy Minister for Environment and Rural Development (Allan Wilson):** We have always made it clear that the liability of landowners will not increase as a result of part 1 of the Land Reform (Scotland) Bill, and the bill makes specific provision to that effect. The bill also places a clear duty on local authorities to protect and keep open access routes.

**John Farquhar Munro:** I thank the minister for his clear reply. Will he give an undertaking that the access code will give out the clear message that visitors to the countryside are largely responsible for their own safety?

**Allan Wilson:** We would expect Scottish Natural Heritage and the access forum to finalise a draft of the Scottish outdoor access code and issue it for consultation as soon as possible after the bill receives royal assent. I would expect to see such guidance contained in the draft code. Under the Occupiers' Liability (Scotland) Act 1960, it is clear that, in all circumstances, the occupier of land has a duty to take such care as is reasonable so that any person who enters the land should not suffer injury as a consequence of doing so. The Land Reform (Scotland) Bill does not alter that basic duty of care.

**Alasdair Morgan (Galloway and Upper Nithsdale) (SNP):** Is it not the case that walking is one of the main motivators behind tourism in the countryside? Will the minister therefore give a commitment that, in the implementation of the legislation, he will not tolerate any shilly-shallying on the part of recalcitrant landowners or local authorities that are unwilling to exercise their responsibilities?

**Allan Wilson:** On the latter point, where a landowner acts or fails to act with the purpose of preventing or deterring access, a local authority will—as Alasdair Morgan knows—have powers to require remedial action to be taken. If necessary,

local authorities can take that action themselves, and ministers will certainly encourage local authorities so to do. The new provisions on access give people a great opportunity to participate in outdoor recreational pursuits. That will be good for individuals, good for the country and good for our tourism potential.

**Scott Barrie (Dunfermline West) (Lab):** Will the minister confirm that the issue of landowners' liability was discussed extensively during stage 2 consideration of the Land Reform (Scotland) Bill? Does he agree that good landowners have nothing to fear from either that aspect of part 1 of the bill or from any other matter contained in part 1?

**Allan Wilson:** Absolutely. Section 5(2) provides that part 1 of the bill—or its operation—will not affect the duty of care owed by an occupier to any person present on the land. We introduced that provision largely at the instigation of land-owning interests. No reasonable landowner has anything to fear from the legislation.

**Murdo Fraser (Mid Scotland and Fife) (Con):** Some of the problems being alluded to in respect of landowners are exactly those that were foreseen by some members when we discussed the Land Reform (Scotland) Bill. Does the minister agree that the best way forward is to encourage local authorities to establish core path networks very quickly? Will the Executive ensure that funding is available to local authorities to progress that work as quickly as possible?

**Allan Wilson:** I sincerely hope that Murdo Fraser is not encouraging landowners to take measures to avoid their access duties and obligations. As he knows, we have provided additional resources to local authorities to enable them to extend the core path networks so that more people can enjoy the benefits of the countryside. We will continue to do that in the years and months to come.

### Olympic Bid

**5. Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** To ask the Scottish Executive what discussions it has had with Her Majesty's Government about an Olympic bid and distributing planned events around the United Kingdom. (S10-6495)

**The Deputy Minister for Tourism, Culture and Sport (Dr Elaine Murray):** The possible bid by London for the 2012 Olympic games was raised at the UK sports cabinet meeting on 8 January. However, the discussions were general and did not focus on whether elements of the games could be dispersed around the country, although I believe that that could be a possibility.

**Ian Jenkins:** I know that, technically, London is applying, but it is a UK bid. Although Scotland

sometimes seems a bit far away from London, during Sydney 2000, the Olympic football tournament was spread around Brisbane, Adelaide, Melbourne and Canberra. Can the minister assure me that, in the event of London bidding successfully for the 2012 games, the Executive will enter into discussions with the Government and the bid organisers on the distribution of football or other events around the UK and on how to exploit the potential tourism benefits for Scotland? Does she agree that we need to be in on the ground floor in those negotiations?

**Dr Murray:** I am hesitant to make commitments for future members of the Scottish Executive, but should the bid be made and be successful, Scotland certainly could bid for elements of the competition. As Ian Jenkins suggests, football would certainly be one such event as it could be dispersed around the country to utilise our many excellent stadia. We could also consider the provision of training facilities. There are certainly possibilities for Scotland to be involved, although in the unlikely event of Scotland being an independent country by 2012, we might have less success in making such a bid.

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** The London bid, if it goes ahead, will of course be a British bid. Given that circumstance and the fact that the majority of members of the Parliament believe in Britain, does the minister agree that facilities such as the rowing centre in Strathclyde park, football stadia and the basketball stadium at Braehead would offer great opportunities to spread involvement to the rest of Britain? Does she also agree that we should take every opportunity to improve our communications with and our role in the bid?

**Dr Murray:** At the moment, the bid is predominantly the responsibility of Westminster, the Department for Culture, Media and Sport and the Greater London Authority, as London would be the main beneficiary of the Olympic games. However, as members know, we have some excellent facilities in Scotland, and I believe that Scotland should be looking to maximise the benefits to the Scottish economy of the dispersal of a number of the events throughout the UK.

### Schools (Healthy Living)

**6. Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab):** To ask the Scottish Executive how it will promote healthy living in schools. (S10-6478)

**The Minister for Education and Young People (Cathy Jamieson):** Healthy eating and physical activity are two main strands of the Executive's new approach to health improvement. The nutritional standards for school meals, which were

announced on 19 February, aim to promote healthy eating. We want every school to become a health-promoting school by 2007.

**Brian Fitzpatrick:** I welcome the moves to improve nutritional standards in school meals for all our children. However, there are concerns about ensuring that children from the poorest backgrounds take up their entitlements and eat the meals. What can be done to ensure that that becomes a reality for all children in Scotland?

**Cathy Jamieson:** I recognise the needs of children and young people from the most disadvantaged backgrounds and from low-income families. It is important that we ensure that those who are entitled to free school meals are able to take up the opportunity without the fear of stigma. We have weighted the distribution of the money that is given to local authorities to ensure that the authorities with the highest rate of free school meal entitlement have an amount of money that will enable them to organise some campaigning on take-up.

**Christine Grahame (South of Scotland) (SNP):** I heard what the minister said about physical activity. Does she agree that the provision throughout Scotland of swimming as part of the curriculum in primary schools would be an enormous step towards healthy living? If so, can she explain why it has taken nearly two years to complete the audit of swimming provision that was first announced by her colleague, Nicol Stephen, in May 2001?

**Cathy Jamieson:** The member will be aware not only that Nicol Stephen has been examining the issue over a period of time, but that he answered a question on the subject in the chamber last week. He made it clear that he is continuing to take action on the matter.

**Tommy Sheridan (Glasgow) (SSP):** Is the minister aware of the evidence that was given to the Parliament by the Child Poverty Action Group as part of the free school meals campaign, which illustrated that 100,000 children in Scotland live in families of the working poor and are, therefore, excluded from free school meals? Does she agree that the take-up of free school meals could easily be improved by allowing the working families tax credit to be a qualification for free school meals and that that is the responsibility of the Scottish Parliament? Will she make the decision to increase the number of children who qualify for free school meals by making the working families tax credit a gateway to free school meals?

**Cathy Jamieson:** If Mr Sheridan was keeping up to date with changes in the benefits system, he would know that changes are due to be made in relation to the children's tax credits, which will have an impact on the qualification level for free school meals.

Let us be clear about what we have done. We are leading the way in introducing nutritional standards to ensure that every meal is a quality meal for young people in schools. We are also subsidising every school meal, targeting the young people who need it most with a free meal and providing free fruit for primary 1 and primary 2. Those are measures that, as a socialist, Mr Sheridan should welcome.

#### **Executive Agencies and Non-departmental Public Bodies (Relocation)**

**7. Irene McGugan (North-East Scotland) (SNP):** To ask the Scottish Executive what factors will be taken into account in forthcoming decisions on the relocation of staff and offices of executive agencies and non-departmental public bodies. (S10-6460)

**The Minister for Finance and Public Services (Mr Andy Kerr):** Relocation decisions are based on a range of factors. Those include costs, the quality and efficiency of service, economic factors such as unemployment and other indicators of deprivation, the availability and suitability of staff, transport issues, environmental considerations, the position of staff and the individual requirements of the organisation concerned.

**Irene McGugan:** Does the minister accept the fact that, as yet, the relocation programme has not made a significant impact in ensuring that more of Scotland's communities share in the economic and social benefits? Glasgow has almost 20 civil service jobs per thousand and Edinburgh has 28 per thousand, while Tayside has only 9 per thousand. Does he agree that distributing civil service jobs away from the central belt and the cities of Glasgow and Edinburgh to cities such as Dundee, would save the country hundreds of thousands of pounds of taxpayers' money every year in the cost of office space and car parking? Has the Executive any plans to conduct a full cost-benefit analysis of the possible savings to be made in future relocations to ensure that they secure value for money?

**Mr Kerr:** The Executive is doing that. Six hundred posts have been, or are planned to be, transferred out of Edinburgh. The relocations include the good work that Kate Maclean has done in Dundee with regard to the Scottish Commission for the Regulation of Care. Work has been done elsewhere in the country on moving jobs out of Edinburgh. Fifteen Executive organisations are under review for relocation. The Executive is focused on the issue of relocation, which, unlike the Scottish National Party's policy of dislocation, is a successful policy. Unlike the SNP, we believe that Scotland should benefit from the policy of relocation.

**Miss Annabel Goldie (West of Scotland)**

**(Con):** Given that it might be the natural wish of many of the employees of the relevant bodies and agencies to be as far away from here as possible, and that Inverclyde compares favourably with Dundee in relation to fresh sea air and panoramic views, and having regard to job losses that the Inverclyde area has suffered, will the minister confirm that he will seriously consider, when allocating or relocating jobs, the parts of Scotland that merit specific attention?

**Mr Kerr:** All parts of Scotland are under consideration, for different and valid reasons. For example, the Executive has changed its policy on the relocation of small units because a small, strategic investment by the Executive in remote rural communities can make a big impact. That is why the Executive continues to develop its relocation policy, which is delivering for all Scotland and which will be a success. As I said, 15 organisations are under review and we hope to report on those soon.

**Irene Oldfather (Cunninghame South) (Lab):**

Is the minister aware of the partnership approach that is being adopted by the Ayrshire economic forum in its bid for Common Services Agency jobs? When will a decision be made on the CSA relocation?

**Mr Kerr:** I congratulate Irene Oldfather on her hard constituency work on relocation issues. I get copies of the *Irvine Times* and *The Irvine Herald and Kilwinning Chronicle*, and I know of the work that is being done on relocation in the areas that those newspapers serve. As I said, 15 organisations are being considered. My recollection is that the decision on the CSA relocation will be announced before the end of March this year.

**Mr Keith Raffan (Mid Scotland and Fife) (LD):**

When will the Executive announce the relocation out of Edinburgh of Scottish Natural Heritage? The decision on that has been long delayed, even according to the Executive's timetable. Does the minister agree that, according to the criteria that he just detailed, there could be no better location for SNH than Battleby, just north of Perth?

**Mr Kerr:** Other people have advised me of better locations. It is clear that the Executive must decide on the best location based on the criteria that I indicated. However, the key fact is that we have a real, big commitment to relocation. We have relocated 650 posts and 15 organisations are under review. I suggest that that shows that the Executive is strongly committed to ensuring that all Scotland benefits from our relocation policy.

**Social Inclusion Partnerships****8. Mr Tom McCabe (Hamilton South) (Lab):**

To ask the Scottish Executive how social inclusion

partnerships are contributing to closing the opportunity gap. (S10-6471)

**The Minister for Social Justice (Ms Margaret Curran):**

We support a range of activities through the SIP programme that contributes to closing the opportunity gap for both urban and rural communities.

**Mr McCabe:** I thank the minister for her answer. Does she agree that SIPs have empowered communities and allowed them to set their own priorities, which they understand better than anyone else? Will she join me in condemning the SNP policy of breaking up the social inclusion model, which would put back community involvement and empowerment by many years?

**Ms Curran:** I am happy to join Tom McCabe in condemning the SNP generally; specifically, I think that the SNP's position on SIPs is insulting, patronising and superficial. We have learned easily from SIPs, which have made a significant contribution to developing local facilities and giving local communities a voice. We want to enhance that voice and increase the influence of local communities. Community empowerment is at the heart of our strategy for regeneration and we believe that that is what will answer the problems in Scotland's communities.

**Alex Neil (Central Scotland) (SNP):** I will not ask the minister to condemn anybody, but I will ask her about concerns over an organisation that is involved in the social inclusion area. My question is about recent events at the Paisley Partnership Regeneration Company and the departure of the chief executive, who was given a golden handshake of £22,000 of public money in return for being silent about what happened inside the company. Will she carry out a full investigation into the use of public money in that company?

**Ms Curran:** I assure Alex Neil and every member of the Scottish Parliament that any concern about a social inclusion partnership or a related area would always be a concern for the Executive. We have in place robust procedures across the SIP programme to ensure that concerns are properly investigated.

Mr Neil has asked a number of written questions about the situation that he mentioned. I assure him that we take any such allegations seriously. Of course, we want to establish the facts of the matter before making any public comment. I am sure that he would agree that that is the right thing to do.

**John Scott (Ayr) (Con):** I have written to the minister and had discussions with her about an expansion of the north Ayr SIP. Will she be able to consider the much-needed inclusion of the Wallacetown area in that partnership?

**Ms Curran:** As I said earlier, we are committed to establishing and advancing the SIP programme. Part of the reason for the exercise that we have undergone through the community regeneration statement is to ensure that we devolve power to the local level. It is clear to us that it is inappropriate that civil servants in Edinburgh make decisions about local areas. We are empowering the local community planning partnerships and, through them, the local SIPs to determine boundaries themselves. We will devise certain criteria in that regard, however. One will be that the SIP must be targeted on deprivation and another will be that community empowerment must be at the heart of the strategy. Unlike the SNP, we will ensure that that happens. If Mr Scott's suggestion can meet those criteria, I am sure we can solve his problems.

### **Voluntary Sector Support (Guidance)**

**9. Brian Adam (North-East Scotland) (SNP):** To ask the Scottish Executive what guidance it gives to local authorities and national health service boards on supporting the voluntary sector. (S1O-6464)

**The Minister for Social Justice (Ms Margaret Curran):** The Scottish compact provides the framework for the Scottish Executive, its agencies and non-departmental public bodies, including national health service boards, to work with the voluntary sector. Similar guidance has been endorsed by the Convention of Scottish Local Authorities for use in local authorities.

**Brian Adam:** Is the minister aware of the threatened cuts to the carelinkline service, which is run by the National Schizophrenic Fellowship in Aberdeen? Is she concerned about the lack of a local compact between the NHS in the north-east and the voluntary sector? Is she aware that Voluntary Health Scotland is also concerned that the local compacts are not in place between NHS organisations and the voluntary sector? What steps does she plan to take in that regard?

**Ms Curran:** I am sure that Brian Adam is aware of the energy that the Executive has committed to ensuring strategic relationships between the voluntary sector and the key partnership agencies. The compact is part of that. He will also know that we strongly encourage local compacts and think that that kind of engagement is the answer to many of the problems that he is referring to. I encourage those key agencies to ensure that they develop those approaches.

Mr Adam will know that the recent review of strategic funding allows us to examine the mechanisms that will enable us to address those issues. We are in discussions with COSLA and other key partners to develop those issues and ensure that the problems that Mr Adam highlights are addressed.

**Dr Richard Simpson (Ochil) (Lab):** Is the Scottish Executive clear that its contract renewals with voluntary organisations are not so close to the end of existing contracts that the staff of the organisations have to be given redundancy notices? Does the minister agree that the decision in April of SNP-led Clackmannanshire Council to postpone until last week a decision on the renewal of certain voluntary organisations' funding, causing redundancy notices to have to be issued, was unacceptable? What steps will the Scottish Executive take to ensure the agreement of local authorities that that sort of discontinuity of funding should be ended?

**Ms Curran:** An interesting theme is emerging this afternoon: the failure of the SNP.

As I said to Brian Adam, we intend to work with the key partners in our strategic review to ensure that the sort of situation that Dr Simpson describes does not arise. It is not acceptable for local authorities such as Clackmannanshire Council—as Dr Simpson said, an SNP-led council—to jeopardise the relationship with the voluntary sector and, presumably, jeopardise important local services.

We believe in a partnership between local authorities, the Scottish Executive and the voluntary sector. We are delivering on those aims and we want the local authorities to rise to that challenge as well.

**Robert Brown (Glasgow) (LD):** I pay tribute to the Scottish Executive for building up the infrastructure at the national level. However, does the minister share the concerns of the Social Justice Committee about the extent to which three-year core funding and other more stable support have operated in practice at the key level of local voluntary groups where the services are mostly delivered? Does she have any suggestions as to how the Executive might be able to influence positively the position of councils and health boards on those matters?

**Ms Curran:** That is what the review will address. It will address public sector funding to the voluntary sector and examine the scope for improving the availability, effectiveness and sustainability of that funding.

We now have in place a strategy that will allow us to grapple with those problems and come up with solutions. However, we must, of course, do that in partnership with local authorities and the voluntary sector, because that is what creates solutions. It is not as easy as just declaring a policy, as that does not make that policy effective. We believe that we have the skills, the attitudes and the behaviours that can create the changes that are required.



### Delayed Discharge

**10. Mr John Home Robertson (East Lothian) (Lab):** To ask the Scottish Executive what progress has been made in reducing delayed discharges from hospitals. (S10-6490)

**The Deputy Minister for Health and Community Care (Mr Frank McAveety):** The latest figures available from the October 2002 census show a decrease of 11 per cent from the previous October.

**Mr Home Robertson:** Will the minister acknowledge that it is imperative that there are enough nursing home places to meet the needs of patients who do not need to remain in hospital beds? The minister will be aware of the concerns that I have raised on behalf of residents, relatives of residents and staff of Cockenzie House nursing home and other private nursing homes in my constituency. What steps can the Executive take to assure people about the security of the care that is provided for frail, elderly patients? Can he comment on the threats that are reported to have been made by the organisation Scottish Care?

**Mr McAveety:** We have put £20 million, which will go up to £30 million, into addressing the central issue of delayed discharge. That has resulted in the welcome 11 per cent reduction that I indicated.

We have a national strategy on capacity planning. We will work with the Convention of Scottish Local Authorities, the voluntary sector and the care home providers to plan ahead to ensure that we have the capacity to meet the needs of the elderly in future.

A capacity planning exercise has already been undertaken in East Lothian and I hope that the results will be published shortly. I cannot comment directly on Cockenzie House, because the future use of that unit is a matter of negotiation between East Lothian Council, Lothian NHS Board and the City of Edinburgh Council. The intention is to sustain the use of the unit as a care home.

The more fundamental issue is that we have made a welcome injection of almost £100 million in line with the national review group's recommendations. That includes the £80 million that is on offer to the care home sector this week. The voluntary sector has accepted that offer.

I do not take kindly to the threats that have been issued about restraining future access to care homes, given that the offer meets the recommendations of the NRG report, to which COSLA, the voluntary sector, the Executive and, most important, Scottish Care signed up in November 2001. We want to ensure proper care for Scotland's older people. That cannot be done through threats from outside.

**Shona Robison (North-East Scotland) (SNP):** Does the minister share my concern about the impact that the failure to have an agreement with the private care home sector will mean for patients who suffer delayed discharge? What more will he do to try to resolve that dispute? The dispute will harm patients and is not good for anybody.

**Mr McAveety:** I remind members that Scottish Care signed up to the tripartite agreement, which I ask Shona Robison to read. The agreement was to be over two years, including the real-terms increase to which we have committed. That meets the national review group obligations. The second issue is capacity planning, which the voluntary and independent care home sector needs to address with COSLA.

It is not about signing blank cheques without any understanding of the implications. The reality is that the Executive has injected for the past year and next year more than £130 million of new money. That has not produced any additional beds, but it has met the need to stabilise the sector that the NRG identified. Individuals claiming that they will not meet the obligations to which they signed up in the care home agreement will destabilise the sector. That is the real agenda. I hope that the Scottish National Party will back the Executive on it.

### National Health Service (Treatment in Other Countries)

**11. Dennis Canavan (Falkirk West):** To ask the Scottish Executive what its estimate is of the number of national health service patients who will receive treatment in other countries. (S10-6474)

**The Minister for Health and Community Care (Malcolm Chisholm):** We expect NHS boards and trusts to meet the waiting-time guarantees that the First Minister announced last week, with the vast majority of patients being treated by NHS Scotland. There may be a few occasions where a local health system is unable to provide treatment within the guaranteed period. In such cases, the patients will be offered treatment elsewhere in the NHS, in the private sector in Scotland or England, or, in very exceptional circumstances, overseas.

**Dennis Canavan:** It is perhaps understandable that some patients would be willing to travel abroad for treatment rather than suffer excessive waiting times in this country. Will the minister take more urgent action to reduce waiting times so that patients do not have to travel abroad at all? Is it not a sad indictment of our national health service, which used to be the envy of the world, that it is now so inadequate that it is reduced to exporting patients to other countries?

**Malcolm Chisholm:** As I said, patients would be treated in other countries only in exceptional

circumstances. The important thing that the First Minister said last week was that patients will get the operation that they need and will get it on time. That was a significant step forward.

The number of people waiting for a long time is coming down. That is what the policy is targeting, and all the indications are that the number of long waiters is coming down. Today's announcement, with £5 million to book up all the spare capacity in the private sector for hip and knee operations next year, will also help. That is not the only feature of our strategy. By early summer we will quadruple the number of people getting orthopaedic operations in the Golden jubilee national hospital. The third and most important prong of the strategy is building up the capacity of the NHS itself. Action is being taken, and a guarantee underpins that action.

### Roads Review

**12. Rhona Brankin (Midlothian) (Lab):** To ask the Scottish Executive when it will publish the results of its roads review. (S1O-6496)

**The Deputy Minister for Enterprise, Transport and Lifelong Learning (Lewis Macdonald):** We are currently reviewing a range of route action plans in order to consider which outstanding minor improvement schemes might be brought forward into the trunk roads programme. I hope to announce the outcome of that review in the near future.

**Rhona Brankin:** I know that the minister is aware of the tragic death of a cyclist last month on the A68 in Dalkeith. Can he assure me that the roads review will take account of the high accident rate and of the inadequacy of quality standards in Dalkeith? Given that £4.5 million of public money has already been spent on buying and preparing land, is it not about time that the Executive pressed ahead with the Dalkeith bypass, removing what even the Executive reporter concedes is in effect a cap on economic development in Midlothian?

**Lewis Macdonald:** I am aware of the reporter's findings, which were recently made known to Midlothian Council with respect to its local plan. The member has indeed already raised with me the tragic death of a cyclist on the A68. I assure her that when we determine our priorities for the trunk road network, we will continue to put both road safety and economic development very high on our list of considerations.

**Mr Adam Ingram (South of Scotland) (SNP):** When will the minister recognise the vital need to upgrade the A77 south of Ayr? It is more of a killer road than the stretch of the A77 between Malletsheugh and Fenwick, which has now been upgraded to motorway status.

**Lewis Macdonald:** As the member is aware, we have made substantial investments in the M77, in the northern part of the route, and we are carrying forward plans in relation to both the A75 and the A77, in consultation with the north channel partnership, which has an interest in those trunk roads serving Stranraer and the south-west.

**David Mundell (South of Scotland) (Con):** Will the Deputy Minister for Enterprise, Transport and Lifelong Learning do all that he can to encourage the First Minister, during his welcome visit to Stranraer tomorrow, to announce that the Scottish Executive will bring forward the start dates for the much-needed projects on the A77 and the A75 that have already been identified by the Executive?

**Lewis Macdonald:** Watch this space.

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** All of us in the far north are very grateful for the money that is to be spent on the A9 at the Ord of Caithness. In passing, I urge the minister to go for the red option, on safety reasons, rather than the yellow or blue options. That said, what additional plans does he have to address other sections of the A9, such as the Cambusavie bends or some of the bends to the north of the Ord of Caithness?

**Lewis Macdonald:** As the A9 is one of our major trunk routes, it is subject to the route action plan process. Although the yellow route of Helmsdale might have appealed to some as a sensible compromise, I am interested in Jamie Stone's conversion to the red route, and will take that into account in considering all the responses.

### Rail Services (Bathgate to Airdrie)

**13. Bristow Muldoon (Livingston) (Lab):** To ask the Scottish Executive when it anticipates work will commence to reinstate the rail line from Bathgate to Airdrie. (S1O-6480)

**The Deputy Minister for Enterprise, Transport and Lifelong Learning (Lewis Macdonald):** We have announced funding of an engineering study to consider requirements for the reopening of the line and to provide a timetable for delivery, which will allow work to commence. I expect development work to be completed by spring next year.

**Bristow Muldoon:** Does the minister agree that the effects of reopening the Bathgate to Airdrie rail line will include economic benefits to West Lothian and North Lanarkshire similar to those that were demonstrated in West Lothian when the Bathgate to Edinburgh line was reopened back in the 1980s? Is he also aware that the whole community of West Lothian—with the exception of the Scottish National Party, which seeks to cast doubt on the Executive's commitment to the project—welcomes the Executive's recent announcement?

**Lewis Macdonald:** I assure Bristow Muldoon that the economic benefits that an Airdrie to Bathgate line can deliver are among the factors that have persuaded the Executive to make the commitment that it has made to that route. I join the member in encouraging all those who have the interests of communities in West Lothian at heart to welcome and support the commitment that the Executive has made.

## First Minister's Question Time

15:10

### Cabinet (Meetings)

**1. Mr John Swinney (North Tayside) (SNP):** To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S1F-2515)

**The First Minister (Mr Jack McConnell):** The meeting of the Scottish Cabinet next week will have a full agenda, including a report from the Minister for Education and Young People on the successful launch yesterday of measures to improve school meals and provide free fresh fruit for all in primary 1 and 2.

**Mr Swinney:** On Saturday, as 100,000 people marched for peace in Glasgow, Mr McConnell said:

"international affairs affect us all. As First Minister of Scotland ... I'm bound to state my views."

In the light of recent events, can the First Minister say what his views are?

**The First Minister:** They are a lot clearer than Mr Swinney's. My views are very clear. Saddam Hussein should disarm and comply with United Nations resolutions. He should co-operate with the inspectors and meet his obligations, as it is his responsibility to ensure that there is peace in his country.

**Mr Swinney:** I will tell the First Minister my views, if he wants to hear them. [*Interruption.*] People such as Duncan McNeil should listen very carefully. First, there should be no illegal war. Secondly, there should be no action without a specific UN mandate. Thirdly, there should be no action without evidence. Those are my views. They are also the views of the people of Scotland and of some Labour back benchers. When will the First Minister start to tell the Prime Minister that what he is doing just now is not in our name?

**The First Minister:** The events of the past week prove that the Scottish nationalist party is a permanent party of protest in Scotland. Mr Swinney's shift from being the leader of the anti-war party on Saturday to being the in-favour-of-war party leader on Monday night was dramatic. It is not good enough for the Scottish nationalist party—

**Tommy Sheridan (Glasgow) (SSP):** Does the First Minister believe in a pre-emptive strike?

**The First Minister:** Mr Sheridan's total opposition to international action, regardless of whether it is authorised by the United Nations, shows that he is not in favour of defending the

people of Iraq against Saddam Hussein or of defending the rest of the world against Saddam Hussein's weapons. [*Interruption.*]

**The Presiding Officer (Sir David Steel):** The First Minister should ignore sedentary interventions.

**The First Minister:** The events of the past week prove that the SNP will say one thing one day and another thing another day. It will not show the consistency that is required of a serious Government party. That is why it is the permanent party of opposition in the Parliament. That is why it will be rejected by the people of Scotland.

**Mr Swinney:** Let us consider the events of the past few days. The UN inspectors' report is published and the British Government reacts with "disappointment". One hundred thousand people take to the streets of Glasgow and the First Minister casts their views aside. In January, I lodged a motion, which we debated with cursory attendance from the First Minister, on these vital international issues. Our position was the same then as it is today. Does not the Government's reaction to the UN inspectors' report and to thousands of demonstrators in Scotland prove that the motion was correct and that the British Government is determined to pursue an inevitable path to war?

**The First Minister:** That is simply not true. The British Government has been absolutely clear in its desire to act through the United Nations and to ensure that the United Nations takes a firm stand in implementing not only the resolutions that it passed 10 years ago, but the resolution that it passed last November. That is the position of the British Government, working through the United Nations.

I listened to people across Scotland last weekend—people of differing views. I listened to them again on Monday when I was in Shetland and I listen to them everywhere I go. However, I will also honestly and consistently represent a position of principle. The one difference in the chamber is between the members on the Government benches—and indeed even on the Conservative benches—who take a principled stand, and the members of the Scottish nationalist party, who will say one thing on Saturday and another thing on Monday and who will not back Scottish troops or even the possibility of a war that they say they would support.

### Prime Minister (Meetings)

**2. David McLetchie (Lothians) (Con):** To ask the First Minister when he next plans to meet the Prime Minister and what issues he intends to raise. (S1F-2518)

**The First Minister (Mr Jack McConnell):** I met the Prime Minister last weekend and I expect to

meet him again shortly. I may ask him about the progress of congestion charging in London, in which case I will be happy to tell Mr McLetchie how the scheme is coming along.

**David McLetchie:** The answer to that question will be long delayed. You should wait until you have to pay for your next ticket down there, Prime Minister—[*Laughter.*] Sorry. I meant to say "First Minister".

Will the First Minister discuss with the Prime Minister—the real one, that is—security both at home and abroad? Does the First Minister accept that, as well as the Prime Minister, he has a responsibility to explain the Government's position on Iraq to people in Scotland? Does he accept that it is simply not enough to attack the inconsistencies of some of his opponents in the chamber, however glaring those inconsistencies might be and wherever those opponents might be sitting? Accordingly, will he follow the Prime Minister in giving a full account of the case against Mr Saddam Hussein, based on the testimony of the democratic Iraqi opposition about the regime's many human rights violations—

**Tommy Sheridan:** The Tories sold the weapons.

**The Presiding Officer:** Order.

**David McLetchie:** Iraq's failure to comply with no fewer than 18 United Nations resolutions since—

**Tommy Sheridan:** Hypocrite.

**The Presiding Officer:** Order. As I have told Mr Sheridan before, there is to be no shouting in the chamber.

**David McLetchie:** The case is based on Iraq's failure to comply with no fewer than 18 resolutions since 1991, of which resolution 1441 is merely the latest example, and the clear threat that Iraq's weapons of mass destruction and terrorist links pose to the security of our people.

**Tommy Sheridan:** What about the Scott inquiry?

**The First Minister:** If Mr Sheridan were in Iraq, he would not be able to behave like that in a parliamentary chamber. He should perhaps just remember that when he considers his behaviour in the chamber of the Scottish Parliament.

**Tommy Sheridan:** And if I was in Indonesia—

**Members:** Shut up.

**The Presiding Officer:** Order. Mr Sheridan, I have warned you three times about shouting when you are sitting down. You have not got the floor at the moment, so you will be quiet.

**The First Minister:** I accept the obligation to give, where it is appropriate for me to do so and when I am asked to do so, the information that Mr McLetchie has just outlined. I also accept, however, that my priority as First Minister in Scotland is to concentrate on the powers of devolution and to work to ensure better schools and hospitals, to provide better transport, to tackle crime and to create jobs in Scotland.

However, where it is appropriate and when I am asked, I am happy to state my views. I am also happy to clarify the facts, so that they are not distorted and so that everybody in Scotland is aware that the United Nations has for 10 years tried to ensure that Saddam Hussein complies with its resolutions. In November, the United Nations called unanimously for one final attempt by inspectors and by the Iraqi regime to comply with those resolutions and said that that was a final demand to Saddam Hussein. It is vital that anybody who believes in democracy and in the security of the world supports the United Nations in that effort.

**David McLetchie:** I thank the First Minister for that robust answer. I agree that he was quite right to draw attention to the inconsistencies in the unprincipled position of the Scottish National Party on the matter. Is he aware that his coalition partners, the Liberal Democrats, have been equally duplicitous on the issue, posing as an anti-war party while at the same time lodging a motion in this Parliament that endorses military action against Iraq in certain circumstances. Are there not indeed two two-faced parties in Scotland today on Iraq? Does the First Minister agree—

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** Mr McLetchie is wrong and he should correct himself.

**David McLetchie:** Mr Wallace is becoming worse than Mr Sheridan. The sooner he is expelled, the better.

**Mr Wallace:** On a point of order, Presiding Officer.

**David McLetchie:** There cannot be points of order during question time. *[Interruption.]*

**The Presiding Officer:** Order. Let me hear the point of order.

**Mr Wallace:** Presiding Officer, is it right for Mr McLetchie to preface his question with something that is patently untrue? The Liberal Democrats have been consistent and he is misleading the Parliament.

**The Presiding Officer:** That is not a point of order.

**David McLetchie:** I say to Mr Wallace that I never mislead the Parliament. He should look to

himself and his own and their duplicity over the past few months.

I want to get back to the key issue. Although a second United Nations resolution on Iraq would undoubtedly be preferable before military action is or may be taken, does the First Minister agree that, as a matter of principle, no one country should be allowed to veto a course of action that a British Government believes to be in our national interest?

**The First Minister:** The British Government has to reserve the right to take action to defend the security of Britain in whatever way it sees fit. It is an important principle—not just for our national position, but in international law—that countries have that right. It is also important that we are consistent. I genuinely believe—I continue to support this perspective—that the British Government is doing all that it can to secure a peaceful outcome to the situation and to ensure that Saddam Hussein complies with the resolutions and acts accordingly, not only for the good of the rest of the world, but for the good of his country. The British Government also wishes to see the United Nations take the right action to back up its position in a second resolution if that is required. That is the right, principled position. It is a consistent position; it is a position of moral principle as well as of good political judgment and I believe that the majority of people in Scotland support it, as recent opinion polls have shown clearly.

**Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Does the First Minister agree that it is an important principle that back-bench MSPs should be free to lodge motions for debate in the Parliament? Does he realise that the 12 Liberal Democrat back-bench MSPs have made it clear what our position is? Despite what Mr McLetchie has just said, our view is that there should be a fresh UN mandate and a substantive vote in the House of Commons. Will the First Minister make those views known to the Prime Minister when he next meets him?

**The First Minister:** It is sometimes tempting for me to comment in public on the Liberal Democrats—in many ways. However, I have no intention of allowing this issue to divide a partnership that has delivered so much for Scotland over the past four years in the Parliament.

Jim Wallace is perfectly able to speak for the Liberal Democrats and he does so regularly. He did so last weekend when I believe he took part in demonstrations in his constituency. If he believes that that was the right thing to do, it is right and proper for him to do it.

It is right that we should all be consistent. In

particular, those who not only seek to occupy the First Minister's chair but want to be Prime Minister of an independent, separate Scotland should be consistent, should back our troops consistently and should ensure that this country is admired internationally, is not inconsistent and does not let itself down.

### **Congestion Charging**

**3. Sarah Boyack (Edinburgh Central) (Lab):** To ask the First Minister how the Scottish Executive will take account of the introduction of congestion charging in London in the development of transport policy. (S1F-2524)

**The First Minister (Mr Jack McConnell):** I am sure that local authorities will be watching carefully the progress of congestion charging in London. Our policy in Scotland is quite clear—congestion charging will go ahead only following substantial investment in public transport and when clear public support locally has been secured.

**Sarah Boyack:** Does the First Minister agree that in Edinburgh we need a package of investment, supported by the Executive, to improve the quality and choice of public transport in advance of the City of Edinburgh Council's referendum on congestion charging? Does he agree that the Tories' position reeks of hypocrisy, given their lamentable track record on public transport investment?

**The First Minister:** My answer to both those questions is yes. On transport in Edinburgh, it is important to record that, if the City of Edinburgh Council decides to hold a referendum on congestion charging and comes to us with a final scheme, as it has promised to do, that referendum will take place in the middle of the largest programme of public transport investment in Edinburgh that there has been for a very long time.

Over the next decade, Edinburgh will have the opportunity to develop a tram network that will benefit the city. The city will also benefit from road improvements and the first new railway in Scotland for a decade. Other new railway stations have been proposed. Those are substantial improvements in the Edinburgh public transport network. They will start long before any congestion charging is implemented in Edinburgh. That is the right way round for those improvements.

### **Transport (Highlands and Islands)**

**4. Mr Duncan Hamilton (Highlands and Islands) (SNP):** To ask the First Minister whether there is an adequate standard of transport infrastructure in the Highlands and Islands. (S1F-2514)

**The First Minister (Mr Jack McConnell):** I recognise the need for continuous improvement in the infrastructure of the Highlands and Islands and the rest of Scotland. That is why, since 1999, we have supported record levels of funding for Highlands and Islands Airports Ltd, new ferries for Caledonian MacBrayne, refurbished piers and harbours, and additional funding for road maintenance. Such funding has not been seen in Scotland for a decade.

**Mr Hamilton:** The First Minister must be aware of the campaign to retain the Glasgow to Barra air link, which has involved hundreds of people meeting in Glasgow and on Barra and has resulted in a debate in the Parliament. As part of that campaign, a petition that has been signed by 1,000 people will be delivered to the Parliament on Tuesday.

The First Minister might have had a chance to see the national press this week. Well informed so-called Labour sources decided to leak the fact that the Executive decision has already been taken and that the service will have a stay of execution for a couple of years. Will the First Minister do the Parliament the courtesy of informing members in the chamber whether that is the policy of his Executive? If the decision has been taken, does that mean that the review that was supposed to report at the end of March has been pre-empted? Does the decision amount to a guarantee for the long-term future of the service, or is it simply an interim measure to get the Labour party through a difficult election?

**The First Minister:** If I had to answer for every story that has been in the Scottish press this week—including some beauties yesterday—I would be here for a very long time.

We are well aware of the public position that has been adopted in Barra. Alasdair Morrison has represented his constituency properly by making that case and Lewis Macdonald has visited the island and discussed the situation with local people.

Last year, I had the pleasure of opening the new airport at Stornoway. The new causeways are making a significant difference to people's ability to move from one island to the next throughout the Western Isles. The final decision on the Glasgow to Barra service will be made in the next few weeks and will be announced to the Parliament in the proper way, not through the press.

**Mr Alasdair Morrison (Western Isles) (Lab):** The last time the First Minister visited my constituency, he saw for himself the positive impact that investment in infrastructure has had on island life. The First Minister and other ministers are well aware of the situation on the island of Barra.

Does the First Minister agree that the primary consideration in relation to Barra must be the well-being of islanders, particularly the hundreds of islanders who are taken to hospitals in Glasgow and beyond? I have spoken regularly with the Deputy Minister for Enterprise, Transport and Lifelong Learning on the issue. I again ask the First Minister when we can expect an announcement.

**The First Minister:** Although I am conscious of the case, I will not pre-empt the final decision and the announcement by the minister concerned, which will happen during the next few weeks. The transport improvements that have taken place in the Western Isles have been critical for the islanders and I acknowledge Mr Morrison's work in lobbying for those improvements. As an islander, I know just how important such transport links can be. In addition to the new airport terminal at Stornoway and the new causeways that have been built, other developments, such as the brand-new hospital in Benbecula, are improving the quality of life in the Western Isles. Devolution is delivering for the Western Isles.

### Community Pharmacies

**5. Mrs Margaret Smith (Edinburgh West) (LD):** To ask the First Minister when the Scottish Executive will respond to the Office of Fair Trading report on community pharmacies. (S1F-2526)

**The First Minister (Mr Jack McConnell):** Pharmacies are an integral part of NHS Scotland. They are not just commercial entities; they provide vital health services in Scottish communities. When we respond to the OFT report, our representations will aim to protect Scotland's network of community pharmacies.

**Mrs Smith:** I appreciate the First Minister's answer. I hope that the Executive will come out strongly against the OFT report. Does the First Minister agree with the views that local pharmacists in Parkgrove and Clermiston expressed to me? They said that, without control of entry, consumers will suffer a reduction in access and the platform from which the Executive intends to launch a wide range of enhanced pharmacy services, as detailed in "The Right Medicine: A Strategy for Pharmaceutical Care in Scotland", will be destroyed.

**The First Minister:** I recognise that there is and will be increasing consumer demand for a variety of outlets for pharmacy products. However, many parts of Scotland, not least our rural areas, have a vital need for a proper local pharmacy service that is protected by regulation. We will put that case in our response to the OFT report. That is our Scottish policy position, which we will adhere to.

**Mr David Davidson (North-East Scotland) (Con):** I declare that I am a non-practising pharmacist.

I thank the First Minister for his earlier response. Essentially, if the OFT report is adopted in Scotland, the whole foundation of the NHS dispensing service in rural and suburban communities will be destroyed. Will the First Minister agree to meet the profession and all the stakeholders who are involved before he sends the Executive's response back south?

**The First Minister:** I must check with Mr Chisholm and Mr McAveety, but I will be surprised if that liaison is not already taking place; it will certainly happen before any final response is sent from Scotland.

The role of pharmacies is not just in the operation of the commercial outlets and in the dispensing of drugs and medicines; it is in the provision of advice at a local level. In Scotland, particularly in areas where the population is small, pharmacists have a key role in providing health advice and in working with local general practitioners and other health services. That role will be increasingly important if we are serious about health prevention and about having a comprehensive approach to health improvement. I believe strongly that we must make firm representations on behalf of the Scottish health service.

**Dorothy-Grace Elder (Glasgow) (Ind):** I am glad to hear the strength of the First Minister's replies. Basically, we are looking for his support for the family-run pharmacy businesses, which have suffered enough. The supermarkets are greedy giants and have already eaten up too many family pharmacy businesses throughout Scotland. That must be curbed. The First Minister must acknowledge that the family pharmacies do the hard work, while the supermarkets cream off the easy trade.

**The First Minister:** Yes.

**The Presiding Officer:** Indeed, I did not hear a question.

**Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab):** Will the First Minister consider sympathetically the representations that constituency MSPs have made to him and to the health ministers? We are concerned about the impact of the proposals on those community pharmacy services that are not on the high street and that are away from health centres, especially those that carry large NHS prescription burdens. Will he also deal sympathetically with community pharmacy representatives who recognise that the status quo is not an option? They are looking for innovation in the control of entry so that people can access pharmacies at times and in

circumstances that are suitable to them.

**The First Minister:** As the response is prepared for submission to the OFT, the Minister for Health and Community Care will take those important points on board.

## Building (Scotland) Bill: Stage 3

*Resumed debate.*

15:34

**The Deputy Presiding Officer (Mr George Reid):** We pick up our consideration of amendments at stage 3 to the Building (Scotland) Bill. I shall allow an extended voting period of two minutes for the first division following the debate on the first group of amendments. Thereafter, I will allow a voting period of one minute for the first division after a debate on a group. For all other divisions, there will be 30 seconds.

### Section 20—Occupation or use without completion certificates

**The Deputy Presiding Officer:** Amendment 16 is grouped with amendments 17 to 21, 39, 40, 46 and 51 to 55.

**Des McNulty:** This group of amendments deals with the unlawful occupation of buildings and with situations in which people are removed from buildings because of danger or potential danger to them. The intention of the provisions is to remove people from buildings in which they may be in danger, but to permit them to return once the danger is past.

The amendments provide that, where people have been removed from a dangerous building or because work undertaken by a local authority might endanger them, the local authority must notify them when the danger is past and they may reoccupy the building. The provision means that people who find themselves in such situations are kept out of the building for the shortest possible time.

The amendments make consequential amendments to the offences provisions and to the provisions that protect tenants' rights in respect of rents. They also provide for a sheriff to have more discretion when deciding whether to grant notice of removal in cases in which there is less urgency.

I move amendment 16.

**John Scott:** I apologise to members for the comments that I am about to make, which should have been made during the debate on the amendments in group 5.

Amendment 40 gives teeth to the proposed new section after section 38A in respect of the evacuation of a dangerous building and its occupation. To fine people for not leaving a building after it has been declared dangerous would seem to be to take a heavy-handed approach. I seek an assurance from the minister that that sanction will not be overused and that it will be adopted only as a last resort.



**Des McNulty:** I can certainly assure John Scott that the intention is that the power will be used only as a last resort. I also assure him that we will monitor carefully the ways in which the power is used by local authorities. The power needs to be included in the bill to ensure that people are protected. It is clear, however, that it should be used only in circumstances in which there is a real danger to individuals. The Executive amendments in the group try to ensure that that power would be in place for the shortest possible time.

The enforcement powers are required to make the bill effective. We will, however, be conscious of the danger that John Scott highlighted and we will monitor the situation closely.

*Amendment 16 agreed to.*

*Amendments 17 to 21 moved—[Des McNulty]—and agreed to.*

#### After section 20

*Amendments 22 and 23 moved—[Des McNulty]—and agreed to.*

#### Section 23—Continuing requirement enforcement notices

*Amendments 24 and 25 moved—[Des McNulty]—and agreed to.*

#### Section 24—Building warrant enforcement notices

**The Deputy Presiding Officer:** Amendment 26 is grouped with amendments 27 to 34.

**Des McNulty:** I will again be brief. Amendments 26 to 34 will amend section 24 to provide for the building warrant enforcement notices to cover not only the construction of buildings, but the demolition of buildings and the provision of services, fittings and equipment.

I move amendment 26.

*Amendment 26 agreed to.*

*Amendments 27 to 34 moved—[Des McNulty]—and agreed to.*

#### Section 26—Dangerous buildings

*Amendment 35 moved—[Des McNulty]—and agreed to.*

#### Section 27—Dangerous building notices

*Amendments 36 and 63 moved—[Des McNulty]—and agreed to.*

#### Section 30—Procedure regulations

*Amendment 38 moved—[Des McNulty]—and agreed to.*

#### Section 38A—Evacuation of buildings

*Amendment 39 moved—[Des McNulty]—and agreed to.*

#### After section 38A

*Amendment 40 moved—[Des McNulty]—and agreed to.*

#### Section 42—Appeals

*Amendments 41 to 45 moved—[Des McNulty]—and agreed to.*

#### Section 43—Penalties for offences

*Amendment 46 moved—[Des McNulty]—and agreed to.*

#### Section 45—Criminal liability of trustees etc

**The Deputy Presiding Officer:** Amendment 47 is in a group on its own.

**Des McNulty:** Amendment 47 simply extends the list of offences for which section 45 provides a defence for those who have only a limited interest in a building and insufficient funds to comply with a notice. Defences will now cover all issues of non-compliance in respect of notices.

I move amendment 47.

*Amendment 47 agreed to.*

#### Section 48—Crown application

**The Deputy Presiding Officer:** Amendment 48 is in a group on its own.

**Des McNulty:** Amendment 48 defines the term “owner” in relation to Crown buildings and provides that the decision of Scottish ministers on the ownership of a Crown building is final.

I move amendment 48.

*Amendment 48 agreed to.*

#### Section 51—Interpretation

*Amendment 49 moved—[Des McNulty]—and agreed to.*

#### Schedule 1

##### BUILDING REGULATIONS

**The Deputy Presiding Officer:** Amendment 50 is in a group on its own.

**Des McNulty:** Amendment 50 will amend paragraph 4 of schedule 1, which lists matters that building regulations may exempt from the provisions of the regulations. The amendment adds conversions to those matters. That is consistent with section 1(1), which sets out matters for which building regulations may be made.

I move amendment 50.

*Amendment 50 agreed to.*

*Amendment 2 moved—[Mr Kenny MacAskill]—  
and agreed to.*

**The Deputy Presiding Officer:** Amendment 64 is in a group on its own.

**John Scott:** I lodged amendment 64 in response to Robert Brown's members' business debate on Thursday 13 February. In that debate, Robert Brown and others eloquently drew attention to the problem of lead soldering being used illegally to connect piping in housing developments. Up to 75,000 homes that have been built since 1987 may have had illegal lead solder used in them, and the occupants have been subjected to unnecessary and damaging levels of lead in their water as a result.

The dangerous practice of using lead soldering has been going on for so long that I, and others, thought that it had long since stopped. It is outrageous that the practice continues, which is why it seemed appropriate to take the opportunity that the bill offers to stamp it out. Amendment 64 is couched in terms that would allow the Executive to introduce such regulations as it sees fit, presumably after consultation, and the amendment could neatly and effectively stop overnight the illegal practice of using lead soldering. I look forward to hearing responses from the minister and other colleagues.

I move amendment 64.

**Robert Brown (Glasgow) (LD):** I pay tribute to John Scott's work. His amendment is one of the good outcomes of the members' business debate on the issue. To have an issue debated one Thursday, which, by the following Thursday, Parliament is able to legislate on, must set some sort of record. It also sets something of a record in terms of the responsiveness of the public legislature to immediate problems.

The lead soldering issue is extremely important and difficult. I was astonished to discover, as John Scott was, the extent of the problem in new houses, which has come about through illegal activities by plumbers. That relates to the economics of plumbing and the fact that lead soldering is used for central heating and the like. John Scott's technique of giving a power to ministers to deal with the issue by using building warrants and completion certificates could be an effective way of stamping the problem on the head. Unfortunately, it would not address what has happened in the past, but if the minister moves swiftly it may mean that we will be able to do something about the problem in the future. It will also ensure that the threat to people's health that is caused by lead soldering will be eliminated over time.

**Ms Sandra White (Glasgow) (SNP):** I support John Scott's amendment. He and I attended the meeting with Scottish Water when the problem came to light. Illegal soldering by builders and plumbers is a problem not just in new-build houses, but in new-build public buildings such as hospitals and schools. That causes great concern, so I hope that the minister will accept the amendment. I congratulate John Scott on lodging it.

**Linda Fabiani:** I shall be brief. I want to stress the necessity of John Scott's amendment, and ask that it be accepted. The issue was raised back in May 2000 when it was the subject of oral questions to one of the minister's predecessors, Iain Gray. Mr Gray admitted that although byelaws existed, they were not being enforced. Here we are, almost three years down the line, and we have seen no change. Please, minister, accept the amendment.

**Des McNulty:** As a former member of the Transport and the Environment Committee, I am well aware of the background to the concerns that John Scott hopes to address with amendment 64. Members who participated in the members' business debate on water supplies and lead pipes, secured by Robert Brown on 13 February, spoke persuasively about the need to address those problems.

Scottish Water must meet the requirements of the European drinking water directive. I am advised that there are no lead water mains in Scotland and that, as part of its £1.8 billion investment plans, Scottish Water replaces lead communication pipes in conjunction with its mains rehabilitation programme.

I am encouraged by the advice, which was provided by my colleague Allan Wilson during the debate, that the drinking water quality results for 2002 show that only 45 of 2,800 regulatory samples taken throughout Scotland failed to meet the tighter standards that the Scottish Executive has introduced.

15:45

Nevertheless, during the members' business debate, members heard concerns about the illegal use of lead solder in connecting domestic water pipes. Despite the fact that such activity is prohibited under 1986 byelaws, some plumbers might have been using lead solder because it appeared to be cheaper and easier for them to do so. With the bill, we have the opportunity to find better prevention and enforcement measures. Amendment 64 will allow us to use building standards to help to enforce water requirements, and will explicitly add to the list of matters for which building regulations may make provision

measures to ensure that pipes will not be fitted in a way that contravenes Scottish water quality regulations.

The Scottish Executive will consider how it can use building and procedure regulations to promote and enforce compliance and thereby prevent water contamination from that source. We will consult relevant agencies and interested parties at an early stage and incorporate the findings into the appropriate regulations.

I support amendment 64.

**The Deputy Presiding Officer:** Do you wish to have another word, Mr Scott?

**John Scott:** I just want to thank the minister for his consideration of my amendment.

*Amendment 64 agreed to.*

### Schedule 3

#### EVACUATION OF BUILDINGS

*Amendments 51 to 55 moved—[Des McNulty]—and agreed to.*

### Schedule 6

#### MODIFICATION OF ENACTMENTS

**The Deputy Presiding Officer:** Amendment 56 is grouped with amendments 57 to 61.

**Des McNulty:** Amendments 56 to 61 are consequential amendments to other acts and are to be included in schedule 6.

I move amendment 56.

*Amendment 56 agreed to.*

*Amendments 57 to 61 moved—[Des McNulty]—and agreed to.*

**The Deputy Presiding Officer:** That ends our consideration of amendments. As it is quite clear that we are likely to finish early, I will look later on for a motion without notice to bring forward decision time.

## Building (Scotland) Bill

**The Deputy Presiding Officer (Mr George Reid):** The next item of business is a debate on motion S1M-3757, in the name of Margaret Curran, that the Building (Scotland) Bill be passed.

15:47

**The Deputy Minister for Social Justice (Des McNulty):** Sometimes the most non-controversial bills turn out to be the best ones. I believe that the Building (Scotland) Bill will significantly enhance and streamline the regulatory regime that covers building in Scotland, which will benefit not just builders and building standards officers but all of us who use buildings. Moreover, the bill builds upon other initiatives that have been introduced by the Scottish Executive to improve the quality of Scotland's housing stock.

As ministers with responsibility for social justice, Margaret Curran and I fully recognise the need to improve the conditions in which the people of Scotland live. We have made thousands of homes warmer and more energy efficient through the central heating programme and the warm deal. However, we have had to take action to improve insulation and energy efficiency because, when the houses were built, they were not up to the standards that we are now putting in place. It is better and more cost-effective to establish higher building standards at the outset than to have to deal later with the consequences of inadequate standards.

Current building regulations have already been amended to take account of Scotland's climate and geography. We have set the highest standards for thermal insulation and energy efficiency in the UK. However, we recognise that there is still room for improvement and the bill allows us to put in place a regulatory regime to take forward that agenda.

Members of the Transport and the Environment Committee will be aware that I have instigated the inclusion of sustainable development in a number of pieces of legislation, most notably in the Water Industry (Scotland) Bill. As a member of that committee, I was pleased to see that sustainability was crucial to the bill from its initial stages. As a minister, I am keen to see that sustainability also flows through to the relevant regulations.

By ensuring that future buildings will meet a series of tough standards, we are moving towards a preventive regime. Scotland's buildings will be designed to last longer, to be sustainable and to be safer for the people who use them. That is a much better result economically, socially and environmentally. Energy conservation is recognised as a key contributor to sustainability.

The bill is a powerful tool in helping to advance Scottish Executive policy in that regard.

I suspect that few of us ever give a thought to building standards as we go about our daily business, although in practice they affect us each and every day. When things go wrong, however, building standards can have a major impact on the lives of the people concerned. That was certainly brought home to us all by the tragic events at Ryan's Bar in Edinburgh in June 2000. Part of the building fell on to Miss Christine Foster, who was working at the bar. That has led to the introduction of provisions in the bill to increase local authorities' powers of inspection in relation to dangerous buildings. Our aim is to reduce the risk of such tragedies happening in the future.

Improving safety is a key plank of the bill. Although prevention of falling masonry from buildings is perhaps the most noteworthy aspect, the bill establishes a regulatory regime that is aimed at better protection for the public and that will allow the introduction of safety measures that prevent users of buildings from coming to harm. Those improved safety measures, which will be achieved through improved verification procedures and improved local authority powers, will help to reduce the potential for easily avoidable accidents, including accidents in the home that can affect babies, young children, older people and adults alike.

As has been mentioned in the debate, the Building (Scotland) Bill has been characterised by consensus. Even before the Scottish Executive introduced the bill to Parliament, the policy objectives and proposals had a wide range of support. I place on record my thanks to those organisations and individuals who participated throughout the consultation process and who assisted in the preparation of the proposals.

The proposals in the bill are the result of more than two years of consultation and they have been informed by many key stakeholders. I believe that that comprehensive consultation process was integral in assisting us to introduce a bill that meets the needs of all those with an interest in building standards. It was widely recognised that Scotland's building standards system dated from another age. However, prior to devolution, there was little prospect of parliamentary time being made available to deal with those deficiencies. Respondents to the consultation—from builders to users to regulators to professional and regulatory specialists—all agreed that the legislation was in need of modernisation to bring it up to date and make it fit for purpose.

The constructive approach that was taken by the Transport and the Environment Committee exemplifies some of the best features of the committee system that we have established in the

Parliament. The committee's stage 1 report said:

"It is clear to the Committee that, with the exception of the provision to allow private sector verifiers, a general consensus has developed in support of the main provisions of the Building (Scotland) Bill. In part, this reflects the inclusive nature of the Executive's arrangement in advance of the publication of the Bill.

In evidence to the committee, the majority of key stakeholder organisations welcomed the Bill"

The committee discussed private verifiers at length and I hope that members were satisfied with the safeguards that we have incorporated into the bill. Again, that reflected the consensual nature of the discussions around various aspects of the bill.

Committee members and clerks worked hard to provide detailed scrutiny of the bill and to suggest relevant and appropriate improvements. I am not sure whether this is the first bill to proceed through stage 2 without a single vote being taken, but it is by far the largest and most complex bill to have achieved such a measure of consensus.

I thank the members and the clerks to the committee for their contribution to the bill from stage 1 through to the present time. Additionally, I thank the Subordinate Legislation Committee for the scrutiny that it provided.

The bill introduces a modernised building standards system for Scotland. Businesses and individuals throughout Scotland will be able to take advantage of the greater flexibility of the system to drive down costs, reduce delays and improve the quality of new buildings.

The new system clearly provides for the powers of the parties to the building standards system. The owner will be responsible for complying with the requirements of the bill. The verifier will be responsible for verifying that compliance and might also be the enforcement agency. The approved certifiers of design will be individuals and organisations that are recognised as competent to certify the standard of design of a building or part of a building. The approved certifiers of construction will be individuals and organisations that are recognised as competent to certify the installation of certain elements of a building. A central standards body will be responsible for setting building standards, auditing verifiers and certifiers and verifying Crown buildings.

The new system that we are introducing will dissolve the rigidity of the current system. We are introducing a flexible system that will allow designers enough scope to promote new and innovative design. The system will provide many opportunities to cut red tape—which, I am sure, will be welcomed on all sides—and to reduce delays, while ensuring that tough standards are met.

The new system will simplify the regulatory requirements that are to be met when constructing a building in Scotland. Certification will help to reduce delays and costs and will deliver improved and innovative design. The improved flexibility will allow owners, designers and builders greater freedom to select the method by which they will demonstrate that they meet the requirements of the building regulations and standards. All those measures will be achieved without compromising public safety.

Prior to exchanging contracts, home buyers often want to establish that a property has no outstanding building control problems. That is usually done by establishing the existence of completion certificates for the building work, and local authorities generally issue a letter of comfort. The bill strengthens that practice by introducing the more meaningful and consistent mechanism of the building standards assessment.

The new system is also designed to help existing home owners. Many members hear concerns from their constituents about work that is undertaken by tradespeople. The national list of approved certifiers of construction will offer greater reassurance to people who undertake renovations to their home.

Better building quality will be delivered through the new minimum functional standards in the regulations, which are compliant with the 1990 European construction products directive. I make it clear that the thrust of our implementation of the regulatory regime will be geared towards delivering higher standards across the board. The bill strikes a balance between encouraging the attainment of higher standards and providing tough sanctions for non-compliance or the provision of false or misleading information. There are both carrots and sticks in the bill, which will allow us to drive up standards.

Before I conclude, it is important that I advise the Parliament that, for the purposes of rule 9.11 of the standing orders, Her Majesty, having been informed of the purport of the Building (Scotland) Bill, has consented to place her prerogative and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

Although the Building (Scotland) Act 1959 did a fair job, we recognised that the time had come to introduce a modernised system that would deliver what Scotland needs for the 21<sup>st</sup> century. The 1959 system has been criticised for being slow, unresponsive and heavy handed in relation to minor works and the bill addresses those concerns. The bill has been widely welcomed by the key stakeholders in the public and private sectors. The new building standards system will bring with it significant benefits for businesses and individuals.

I move,

That the Parliament agrees that the Building (Scotland) Bill be passed.

15:57

**Linda Fabiani (Central Scotland) (SNP):** I am tempted simply to say that I agree with the minister and then sit down. I am amazed by the level of harmony that we have reached; we never quite reached such a level when Hugh Henry was the Deputy Minister for Social Justice.

The fact that the bill will have been passed quickly does not take away from its importance—it is extremely important and long overdue. That speed is a mark of how well the parliamentary system has worked. I pay tribute to the Transport and the Environment Committee for its deliberations at stage 2. I was particularly pleased that the committee accepted Fiona McLeod's amendments on suitability for access for those with disabilities, which is an important step forward.

I am a wee bit disappointed that, in the one vote that we have had today on the bill, the Executive did not accept Kenny MacAskill's amendment on broadband. That amendment was eminently sensible and progressive—just like Kenny—and I would have liked an unequivocal commitment on the issue.

The only thing that remains for me to do is to say that we support the bill and are delighted with it. I am also pleased that the Queen agrees with the minister.

15:59

**John Scott (Ayr) (Con):** I thank the clerks of the Transport and the Environment Committee, wherever they are, for all their hard work on the bill. The bill has involved a huge effort and a lot of commitment from many people. Our thanks should go to the civil servants, consultees and the Scottish Parliament information centre, which produced worthwhile briefing papers on the subject.

The bill fulfils several needs. First, it reviews and replaces the 1959 act, which, although it has served us well, is regarded as no longer of its time, as Des McNulty said. Secondly, the bill discharges an obligation under the European construction products directive, which is also vital.

It is important that the bill will introduce more flexibility into the building control system and will reduce red tape and bureaucracy. In conjunction with the continuing requirements, that means that a less rigid approach to design will be delivered, which I welcome. It is also significant that the bill will increase the power of local authorities with

regard to dangerous buildings. Amendment 40, on the imposition of fines, which was discussed today, will certainly deter any unlawful occupation.

I welcome the introduction of the possibility of private sector verifiers carrying out work that has been carried out only by local authorities in the past—I applaud the Government's vision in that respect. Certainly, the Government's thinking on that matter is much more measured than the evidence that we received from the City of Edinburgh Council, which smacked of closed shop and closed minds.

Finally, I welcome the bill's intention to provide more information to house buyers and the reassurance that tradespeople will be obliged to work to higher standards than previously. I thank colleagues for supporting my amendment on regulating lead solder use in domestic water-supply piping, which puts another brick in the wall of delivering better practice. I wish the bill success and hope that it delivers all that is expected of it.

16:01

**Nora Radcliffe (Gordon) (LD):** The bill could be described as non-contentious, but useful and interesting. Members have said that it has been largely welcomed by the building trade, which had a great input into the initial consultation on how the bill should be put together.

I thank the committee's expert witnesses in particular—they enlightened our ignorance about many technical matters. One of the perks of being an MSP is having access to people who can give insights into other people's lives and work, which is good.

The pluses of the bill—which puts together the regulatory framework—include the opportunity to reduce red tape and produce more flexibility. Concerns were expressed that such flexibility might be to the detriment of standards; there could be dangers in making regulations less prescriptive, and disability groups were especially worried about access standards, although I think that their concerns have been addressed. Another major concern was expressed about the use of private verifiers. However, responsibility for verification will stay with the local authorities in the meantime, which gives us the opportunity to monitor how private verification works south of the border and whether it would be desirable for Scotland.

Another positive aspect is that it will be easier for local authorities to be proactive in respect of buildings that might be dangerous.

The bill establishes a building regulation framework that offers exciting opportunities for new energy-efficient and accessible buildings. Much can be done at little or no extra cost at the

construction stage that would be extremely expensive to retrofit.

I would like consideration to be given to opportunities that are offered by extension and refurbishment, and to how those can be exploited to bring older buildings up to higher standards. To do so by regulation is tricky, because it is obvious that matters depend on the degree of extension and refurbishment. If one is putting in a porch in a stately mansion, it is obviously not sensible to expect the whole mansion to be brought up to standard, but extensions, additions or refurbishment provide opportunities to upgrade older buildings. Those opportunities should be exploited.

Work on the bill has been interesting and the outcome has been good. I now look forward to the exciting bit—the building regulations that will be possible through the framework.

16:03

**Bristow Muldoon (Livingston) (Lab):** I support and welcome the bill, as proposed by ministers today. Many members have acknowledged the wide agreement across the political parties, which was reflected in discussion of the stage 3 amendments. The minister accepted amendments that were lodged by John Scott and Kenny MacAskill and, as Linda Fabiani pointed out, there was only one division. John Scott's and Kenny MacAskill's amendments are welcome additions to the bill.

I echo the thanks that have been given by other members to the clerks of the Transport and the Environment Committee, two of whom are in the gallery. They gave their usual professional and high standard of support to members of the committee during their consideration of the bill.

Members have mentioned that part of the reason why there has been broad agreement among the political parties is the degree of advance consultation that took place on the bill. The consultation included local authorities, professional organisations, consumer groups, public interest groups and industry groups. The degree of consultation was welcomed by, among others, the Royal Incorporation of Architects in Scotland, which stated:

“we welcome the way in which the drafting has been undertaken ... We think that the bill is a good example of how legislation can be drafted in Scotland.”—[*Official Report, Transport and the Environment Committee*, 30 October 2002; c 3564-3565]

Credit goes to ministers and Executive officials for that process.

The reasons for the broad support for the bill go beyond the fact that there was extensive consultation. There is also broad agreement

among political parties on the importance of renewing the building regulations and reviewing the way in which they deal with matters such as health and safety, accessibility, the conservation of fuel and power and sustainability, which Mr McNulty mentioned earlier. The ability to impose continuing requirements on owners of buildings is also to be welcomed.

Another important matter that Des McNulty mentioned was the powers for local authorities to intervene when dangerous or defective buildings are identified. Des McNulty reflected on a recent incident in Edinburgh that some of my colleagues, including Angus MacKay and Sarah Boyack, stressed during the passage of the bill.

One issue to which Des McNulty referred on which there was some disagreement by the committee with the Executive's position is the appointment of private sector verifiers. I disagree somewhat with John Scott on that point, in that I was more impressed than he was with the evidence from the City of Edinburgh Council. I was reassured considerably by the comments that Margaret Curran made in the stage 1 debate. She said that the Executive will give a firm commitment not to introduce such verifiers until a full study has been undertaken into their potential impact and she gave a clear commitment that local authorities would be part of any such study.

The provisions of the bill receive, on the whole, widespread support. However, as Nora Radcliffe pointed out, that does not mean that the provisions are not significant. The bill represents an updating and improvement of building control legislation in Scotland and, as such, I am sure that colleagues will at decision time support unanimously the passage of the bill.

16:07

**Robin Harper (Lothians) (Green):** I will make one point but, before I do, I will add my tributes to the clerks, the expert witnesses, my colleagues on the committee, Bristow Muldoon for his convenership of the committee during the process of the bill, which was extremely interesting and, not least, to Des McNulty for the work that he did in preparation of the bill while he was on the committee and the work that he has done since as minister—we could perhaps even call the bill the Des res bill.

However, every time the minister mentioned sustainability and thermal efficiency he looked nervously in my direction. He will not be surprised that I want to remind the Executive that the storm that two days ago dumped 3ft of snow on the United States will cross the Atlantic and arrive here. That will serve to remind us—this makes me slightly worried about the minister's comments in

his introduction—that although we have better regulations for thermal efficiency than our neighbours down south do, we have the worst and least efficient thermal efficiency regulations in northern Europe. We need urgently to do something about those regulations in the light of climate change and the possibility that we might get worse winters and hotter summers in the future. In the interests of saving energy and ensuring that people in Scotland do not live in cold houses in the future, the Executive must upgrade the thermal efficiency regulations as soon as possible to the highest possible standards.

**The Deputy Presiding Officer:** I ask Margaret Curran to wind up the debate, after which I will take a motion without notice.

16:09

**The Minister for Social Justice (Ms Margaret Curran):** I am very pleased—as I am sure are most members of the Parliament—that the instruction was not to keep talking until 5 o'clock, although I think I could do that.

I am pleased to be closing the debate and bringing to a conclusion the passing of the bill. I was delighted to be told that I was getting this slot again—it has been a while since I made a closing speech—because the slot allows members to indulge their more argumentative side. I begged David Davidson to argue with me so that we could have a debate on the bill, but we did not manage that. I even found myself saying earlier that I thought that Kenny MacAskill was quite reasonable, which is a first for me. There is clearly consensus on the bill.

As others have, I record my thanks to the members of the Transport and the Environment Committee for their sterling work on the committee and for their contributions in the chamber. I also thank the clerks for their support. I pay tribute to the work of the Executive officials, not just for the framing of the technical detail of the bill, but for the way in which they have conducted the process of achieving it and the preparation that they have made for it. As Des McNulty said, their engagement with the key stakeholders, from builders to local authorities, has helped us to establish the proper evidence that we need for the bill, and it has allowed us to deliver a robust package of measures.

As members have said, it is tempting to associate consensus in politics with unimportant matters; however, as Linda Fabiani said, to do so is wrong. The bill represents very important measures that the Executive is determined to implement and which have received cross-party support. We are addressing fundamental shortcomings in the current system and

introducing a new and modern building standards system for the 21<sup>st</sup> century. We must address the twin goals of conservation of fuel and power, and of sustainable development. In short, we need buildings that are fit for today's world and which meet the standards that are suitable for today's needs. It is those things that building standards deliver, and the bill delivers a new framework for continuing the improvement of standards in Scotland. It is a detailed bill and the subject can, on occasions, be technical—as we have been reminded this afternoon. However, the bill is no less vital for that and it is likely that the bill, like its predecessor, will underpin the building standards system for several decades.

Des McNulty has talked about the bill, and members will be glad to know that I am not going to go over it again. We have all come to terms with the issues in the bill, so I will move swiftly to a conclusion.

I pay tribute to the work of Des McNulty, who has handled the bill expertly. His dedication to managing the bill through the committee process has led to today's consensus and our satisfaction with it as legislation. It is Des's first piece of legislation as a minister, but I suspect that he might be put in charge of more bills if such consensus is to be the outcome—that is quite an achievement for Des. As Robert Brown said, we quickly made a connection with a members' business debate, we accepted an amendment from a Tory and we have called Kenny MacAskill reasonable—which is quite significant. I encourage all members to support the motion that the Parliament pass the Building (Scotland) Bill.

**Euan Robson (Roxburgh and Berwickshire) (LD):** On a point of order. I ask the Presiding Officer to review this afternoon's questions to the First Minister and to consider the admissibility of Mr McLetchie's questions, in which he appeared to ask the First Minister, in a long preface, to comment on the policy of a political party for which the office of First Minister is not accountable.

**The Deputy Presiding Officer:** Without making any immediate judgment on what you have said, Mr Robson, I think that it would be reasonable for the three Presiding Officers to read the *Official Report*, come to a view and communicate that view to you, if that would be acceptable.

**Euan Robson:** Thank you. May I move a motion without notice to bring forward decision time to now?

**The Deputy Presiding Officer:** I think that you will have to move the Parliamentary Bureau motion first.

## Parliamentary Bureau Motion

16:13

*Motion moved,*

That the Parliament agrees under rule 11.2.4 of Standing Orders that Decision Time on Thursday 20 February 2003 be taken at 4.14 pm.—[*Euan Robson.*]



## Motion Without Notice

16:14

**The Deputy Presiding Officer (Mr George Reid):** I am prepared to consider a motion without notice to bring forward decision time to 16:14 and 30 seconds.

*Motion moved,*

That the Parliament agrees under rule 11.2.4 of Standing Orders that Decision Time on Thursday 20 February be taken at 4.14pm.—[*Euan Robson.*]

*Motion agreed to.*

## Decision Time

16:14

**The Deputy Presiding Officer (Mr George Reid):** There are three questions to be put as a result of today's business. The first question is, that motion S1M-3730, in the name of Jim Wallace, that the Criminal Justice (Scotland) Bill be passed, be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Elder, Dorothy-Grace (Glasgow) (Ind)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Grn)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacKay, Angus (Edinburgh South) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robison, Shona (North-East Scotland) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Wallace, Mr Jim (Orkney) (LD)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Aitken, Bill (Glasgow) (Con)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Johnstone, Alex (North-East Scotland) (Con)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Mundell, David (South of Scotland) (Con)  
 Scott, John (Ayr) (Con)  
 Young, John (West of Scotland) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 71, Against 0, Abstentions 15.

*Motion agreed to.*

That the Parliament agrees that the Criminal Justice (Scotland) Bill be passed.

**The Deputy Presiding Officer:** The next question is, that motion S1M-3757, in the name of Margaret Curran, on the passing of the Building (Scotland) Bill, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the Building (Scotland) Bill be passed.

**The Deputy Presiding Officer:** The third and final question is, that motion S1M-3917, in the name of Patricia Ferguson, on the approval of a special grant report, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the Special Grant Report No.1: Special Grant for Scotland Asylum Seeker Assistance - Report by Scottish Ministers (SE/2003/15) be approved.

**The Deputy Presiding Officer:** That concludes decision time.

**Phil Gallie (South of Scotland) (Con):** On a point of order, Presiding Officer. Is not it the

practice in Parliament that anything that a man—or woman, for that matter—says when addressing members in the chamber is the member's responsibility and is not the responsibility of the Presiding Officer? Was not it the case in an earlier debate when Mr Jim Wallace intervened—or raised his point of order—on Mr McLetchie, that the Presiding Officer made a judgment on what had been said and gave an opinion at that time?

**The Deputy Presiding Officer:** Such issues are covered by the requirement that members be courteous and respectful. I do not want to make an instant judgment on the matter to which Mr Gallie referred; I will have to see the *Official Report* of the debate. I make no judgment at this point, but I have said simply that the Presiding Officer, who has sent me a note, will agree to consider the matter as it appears in the *Official Report* and will come back to the Liberal Democrats—and, indeed, to you, Mr Gallie, because you have raised the point—early next week. I hope that that is acceptable. [*Interruption.*]

Order—there is another point of order. If we are having points of order, perhaps members could sit or leave the chamber.

**Michael Matheson (Central Scotland) (SNP):** Can the Deputy Presiding Officer tell us why on this occasion—because members have previously presented misleading information in the chamber—the Presiding Officer has decided to look into the matter?

**The Deputy Presiding Officer:** We do not always have to give reasons, but it seems to me to be perfectly reasonable for Sir David Steel to take the view that, until he has read the *Official Report* on the matter, he will make no judgment. As I said, Mr Matheson, no judgment has been reached. There has simply been an agreement to read the *Official Report* and to come back to the Liberals and Mr Gallie—and, indeed, to you, Mr Matheson—at the beginning of next week.

**Margo MacDonald (Lothians) (Ind):** I have a serious point of order. I have raised previously what I regarded as points of order, but I was ruled against by the Presiding Officer. I accepted those rulings because I assume—I think that standing orders will bear me out—that it is the job of the Presiding Officer to decide on what is and is not pertinent, what is trivial and what is worthy of further consideration.

I put it to you, Presiding Officer, that what happened earlier this afternoon is not worthy of further consideration.

**The Deputy Presiding Officer:** I was not in the Presiding Officer's chair at that time. I cannot add anything to the remarks that I made to the Liberal

Democrats when they raised the matter. Sir David Steel will consider the matter and will come back to you as well, Ms MacDonald, early next week.

We can now move on to the members' business debate.

## Arbroath CAFE Project

**The Deputy Presiding Officer (Mr Murray Tosh):** The final item of business today is a members' business debate on motion S1M-3860, in the name of Mr Andrew Welsh, on the Arbroath Community Alcohol Free Environment—CAFE—project.

### *Motion debated,*

That the Parliament applauds the pioneering work of the Arbroath CAFE Project which provides an invaluable service for young people in the area; notes that a safe, community alcohol-free environment was established where young people could socialise and engage in a wide range of activities, providing a positive alternative to "life on the street"; recognises the success of the project which has received national and international recognition and is being used as a model for projects elsewhere in the country and further afield; congratulates the project on its involvement with the British Council's global Dreams and Teams project and on its plans to launch a pilot scheme, "Street Football for All" to take place throughout Angus with a view to becoming a national project, and wishes the CAFE Project every success with both these initiatives and in continuing to provide opportunities for young people and the wider community.

16:20

**Mr Andrew Welsh (Angus) (SNP):** My purposes in initiating this debate on the Arbroath CAFE project are to praise its achievements and to encourage others to see the potential that is offered by this innovative and exciting community project. I welcome members and leaders of the Arbroath CAFE project who are present in the Scottish Parliament visitors gallery today.

The Arbroath CAFE project was established in 1996 following an open seminar on juvenile delinquency and concerns about how unemployment, social deprivation, poor housing, crime, alcohol and substance misuse were affecting the health, development and mental well-being of young people. There was a clear need in Angus for a positive alternative to life on the street, and for the creation of a place where young people could socialise and engage in a wide range of activities in a safe environment.

Within six months, the project had raised sufficient funds to lease, convert and renovate a former church and open its doors as an alcohol-free community environment. Now an established charity, it is open five days and six nights a week and provides a one-stop shop for leisure, culture, health, education and employment services, as well as outdoor activities for people under 25 years of age in Arbroath and Angus. The youth drop-in facility has more than 12,000 attendees a year and is open to everyone, including young people who have been before the children's hearings system or courts and those who are in residential care.

The CAFE project is founded on inclusiveness for all, equal opportunities, active citizenship and on resources to meet community need. Tony Andrews, when he was director of the British Council in Germany, described the CAFE project as

“extraordinary, innovative and inspiring in the way in which it reconnects young people with the mainstream—a model for working with disadvantaged young people”.

The Angus CAFE project is both national and international in outlook. Over the past year, CAFE has been working with the British Council in Germany on its 15-nation dreams and teams programme, which aims to use sport—in particular football—to counter negative perceptions of other nations and to promote active citizenship among young people. Fact-finding exchanges have taken place between youth groups in Germany and the CAFE project, and young people from Arbroath took part in an international football tournament in Potsdam, Germany in August 2002.

A tripartite tournament, organised by the CAFE project is planned for 2003 in Angus and will involve teams from Scotland, Germany and Lithuania. At the invitation of the British Council in Germany, the CAFE project has taken on the responsibility of spreading the dreams and teams concept throughout Scotland.

Recognising the potential for dealing with social problems closer to home, the CAFE project is developing a national project—street football for all—that promotes sport, health, social inclusion, active citizenship, tolerance and, as a consequence, employability. Street football for all has been successful in Columbia, where it was developed as football for peace, and in Germany, where it was called street football for tolerance.

The CAFE project currently awaits the arrival of a portable pitch and trailer from Germany. With financial support from Scottish Enterprise Tayside and the safe Angus for everyone—SAFE—initiative, and with the help of volunteers, community police officers and community education workers, the pitch will be available for use by young people seven days a week. With a quickly assembled and easily transportable pitch, the game is self-contained and can be played on any surface. The pitch can be used for other sports, such as netball, unihoc, basketball, short tennis, badminton and touch rugby. It offers wheelchair access as well. This is truly availability for all.

The rules ensure that males and females can take part, and they also encourage socially acceptable behaviour between young people in their communities and other countries. There is no referee, only an adviser. Claims for penalties are resolved through negotiation and goals are awarded or deducted at the end of the match for

good or bad sportsmanship. For example, goals are deducted for swearing, fouling, arguing and not applauding an opponent's goal. If those rules were applied to the Scottish Premier League, they would necessitate either much-improved conduct or a cricket scoreboard. After evaluation, funding will be sought to expand the project throughout Scotland if it is deemed worth while.

I emphasise to the minister and Parliament that the CAFE project is truly a local community project; 23-year-old Paul Hardie, who is with us in the gallery, started as a participant and is now chairman. He devotes 30 hours per week to the CAFE project in addition to his normal working week. The project's directors include an Arbroath solicitor, a bank manager, a businesswoman, a chartered accountant, a police constable and even the local sheriff, Norrie Stein, who has been a major driving force and inspiration behind the success of the initiative, which involves a range of local volunteers giving freely of their time and talents for their community.

The project is a living partnership that uses practical joined-up working. It shares premises with the Prince's Trust, the Duke of Edinburgh's Award scheme, the positive action lifestyles—PALS—project, Angus under-21s health, Volunteer Centre Angus and other organisations, which cluster round the core project and involve literacy, numeracy and leisure-time activities. They have received funding from local, national and international sources.

All that and the nearby Oasis project are not there because Arbroath has more problems than other towns, but because it has discovered more solutions. I hope that those solutions will inspire and encourage other individuals and organisations into working together to provide their young people with positive motivation and resources for the overall good and well-being of our society and its young people.

I congratulate everyone who is involved in the CAFE project, wish them all success in future and commend their work to the national Parliament.

16:27

**Mr Keith Raffan (Mid Scotland and Fife) (LD):** I congratulate Andrew Welsh sincerely on securing the debate. I share his enthusiasm for the Arbroath CAFE. It is precisely the kind of project that needs to be replicated throughout Scotland. There are many other, similar projects, such as the Corner in Dundee, which is now internationally renowned, and Off the Record in Stirling—although they may have a different emphasis.

Such projects have a huge role to play. As Mr Welsh and I both sit on the Audit Committee, which in its past few meetings has considered how

effectively to tackle youth offending, we know the situation as it is at the moment. The Executive spends 60 per cent on process and only 40 per cent on disposals. I, for one, would like that balance to be reversed. I cannot speak for Mr Welsh, but I have a feeling that he may have sympathy for that view.

Many of us want the Executive to invest far more in projects of the type that we are discussing. It may come down to local authorities. We heard at question time today about the difficulties of long-term funding in the voluntary sector in particular. We heard about the difficulty of getting local authorities, the national health service—as in today's oral question—or others, round the table to make the necessary finance available.

The Executive calls for three-year funding in "The Scottish Compact: The principles underpinning the relationship between Government and the voluntary sector in Scotland", which I strongly support. However, it is easy for the Executive to call for that, because it provides directly only 6 per cent of voluntary sector funding. Most comes through local authorities and other bodies. We want longer-term funding—for at least three years—to be made available for projects such as the CAFE project.

As convener of the cross-party group in the Scottish Parliament on drug misuse, I have a particular passion for such projects. They play a central role in involving young people and giving them constructive and positive alternatives to drug and alcohol misuse.

Another project, which is in my region, is Clued Up in Kirkcaldy. It does an invaluable job. Those who run it are brought into schools by teachers when they have identified kids with a drug or alcohol problem. It helps those kids and has a drop-in centre in the town. The centre is just a couple of big and extremely sparsely furnished rooms, yet it is a hub of activity, particularly of after-hours activity, for schoolchildren. It gives them positive activities to take part in, rather than the destructive ones that come through drug or alcohol misuse.

I strongly support the Arbroath CAFE project and pay tribute to it. Its renown has spread way beyond Arbroath and the boundaries of Angus; it has even reached Mid Scotland and Fife and beyond. We are sometimes accused of not having been radical or imaginative enough in our first session, but I hope that, when the Lib-Lab coalition returns to power in the new Parliament, we can proceed with more imaginative projects like the CAFE project, the Corner in Dundee and Off the Record in Stirling, which are having an impact internationally. The head of the Corner has gone abroad to countries as far away as Malaysia and elsewhere in the far east to advise people on

setting up similar projects there. We need more here at home.

16:31

**Alex Johnstone (North-East Scotland) (Con):**

After a long, hard day at the legislative coalface, it is nice to come to a subject on which we can find some consensus—and we can perhaps take a little enjoyment from it. It is a delight to be able to talk about the Arbroath CAFE project today; I congratulate Andrew Welsh on securing a debate in which we can discuss its achievements.

Since the CAFE project was established as a charity in 1996, it has been able to respond to and identify some of the needs of young people in the Arbroath area and has provided them with a real alternative to just hanging about on the street, which seems to be the preferred activity of many young people in other areas. The core facility at the drop-in centre offers leisure, culture, health, education and employment services. It also runs outdoor activities for young people aged between 12 and 25 who are at risk from exclusion, alcohol and substance misuse, and delinquency.

The dreams and teams project, which is mentioned in the motion, has allowed the CAFE project to become involved in something quite expansive. The CAFE project's involvement with the British Council in Germany has helped it become far more outward looking than was the case previously.

The street football for all scheme is an interesting concept, and I understand it better now that it has been explained by Andrew Welsh. As he went through the rules of street football for all, Andrew gave me one or two ideas about how we might sort arguments such as those that we heard here this afternoon. If we had introduced those rules on a moderate level here, they might have prevented some of the more outspoken comments that were made today.

I wish to highlight a number of key points about the CAFE project that I think can be learned from in other areas. Part of the success of the project to date comes from the fact that it does not have a top-down attitude towards its own management. Rather, it actively encourages the youngsters themselves to help manage the project. I pay tribute to the young people who have become involved in the project to that extent.

The project engages with and has the support of the whole community in the Arbroath area. It originated from the Arbroath and district crime prevention panel's open seminar on juvenile delinquency in July 1996, and has since attracted—and retained—the involvement of Tayside police, the Arbroath schools, Angus College, local businessmen, Angus Council,

Scottish Enterprise Tayside and local health bodies. The involvement of such a cross-section of the community has been key to the project's continued success.

Although the debate focuses on the CAFE project, I take this opportunity to highlight the excellent work of a number of other youth projects in Angus, some of which I have visited. Andrew Welsh mentioned Oasis and PALS, which are also in Arbroath. I will add the success of Young Montrose and the work done there by Val Cooper. There is also the Zone in Carnoustie, which I understand is now up and running again, although it is still in search of volunteers.

I pay tribute to all those involved in the CAFE project, especially the many local volunteers who give up so much of their time to ensure that it runs smoothly and successfully. I wish the project every success in the future and have no doubt that it will continue to provide Arbroath and the surrounding area with a service that they are very lucky to have—a flagship service that I hope will be developed in many other areas of Scotland. I support Andrew Welsh in calling on the Parliament to recognise the success of the project.

16:35

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** I add my congratulations to Andrew Welsh on securing this debate and compliment him on his thoughtful speech, to which I listened with great interest.

Andrew Welsh's speech struck a chord with me because of my involvement with the Tain youth cafe, in my home town, which is run on similar lines to the Arbroath CAFE. The project is about getting young people off the streets and making them feel that they have a role. That approach has proved successful in the Highlands, as well as in Arbroath. I hope that the model can be replicated elsewhere, as I have seen how it works. It is very much to the good not just of the young, but of us all.

Alex Johnstone said that the approach of the Arbroath CAFE is not top down, but bottom up. That is a colossal strength. When I took Jim Wallace to the Tain youth cafe in the summer, we were both taken aback by the sharpness of the questions that we were asked and the young people's ability to take us on. They would not be put off by a glib answer from J Stone and continued to probe further. They felt empowered by the fact that they had their own premises, which were their territory.

I want to make two points that follow on from that experience. First, in my time as a councillor on Highland Council, we established a Highland youth parliament. That approach has been

replicated in many other parts of Scotland. Although the object of such initiatives is laudable, often they are led by a combination of local authorities and, perhaps, the NHS. Sometimes there is a danger that they will be top down, rather than bottom up. The Highland youth parliament decided that it wanted to debate the legalisation of cannabis. Members can imagine the sucking in of teeth that that caused among representatives of the NHS and the local authority, which had paid for the body to be set up. However, the incident demonstrated that, if we set up a youth parliament, we must be willing to let young people have their own voice.

Secondly, how many community councils do we know that include a couple of 16 or 17-year-olds among their members, to express the opinions of young people? There are some, but not many. Often, when problems relating to young people are flagged up—at all levels of democracy—I hear people say that they must speak to the head teacher rather than to the young people themselves. That issue is linked to the points that Andrew Welsh made today. We have a golden opportunity for the future.

When we get things right and empower young people so that they feel they are involved—building on youth cafes by setting up youth parliaments, encouraging young people's participation in community councils and who knows what else—their awareness of politics is increased. I do not want to debate whether people should be given the vote at 16, but too often we see youngsters who feel disfranchised and are not involved in the political process. The turnout at elections among the youngest voters is appalling. The great advantage of projects such as the Arbroath CAFE is that they offer a way of reversing the decline in voter turnout. How we tackle that problem is a test not just for the Executive, but for us all. The project that Andrew Welsh has described is a firm foundation on which to build. I commend it to the Parliament.

16:39

**Irene McGugan (North-East Scotland) (SNP):** I add my congratulations to those that have been offered to Andrew Welsh and to the young people of the CAFE project—not only for the work that they do, but because they are probably unique in having two motions relating to them lodged in the Scottish Parliament in the space of two months. I lodged my motion following a presentation that the project made in November last year to the cross-party group in the Scottish Parliament on children and young people. In fact, that was not the first contact that the cross-party group had had with them, as we used the CAFE project premises for a very successful consultation event that we carried out with young people in Angus.

My motion in November was specifically about street football for all, which, as Andrew said, is now a national project. It seeks to promote sport, health and active citizenship through football. It has brought together young people from Scotland, Germany and about 15 other countries. In doing that, it also hopes to increase understanding and tolerance.

The cross-party group was also very taken by the imaginative rules of street football. Teams are of six, with no more than four on the pitch at one time. We applauded the fact that each team must include a girl. Penalties are taken from under one's own goalposts into an empty net and games can be no shorter than four minutes and no longer than 10. Most important, goals are deducted for unfriendly behaviour. It was clear throughout that the really important thing is that people have a lot of fun.

The presentation to the cross-party group was at a meeting on physical activity for young people. Indeed, we had Mary Allison and John Beattie from the physical activity task force at that same cross-party group meeting. They outlined how very difficult it is to get young people involved in sport or physically active at all. When they heard about it, they commended the street football initiative, not least because the young people said that it was estimated that approximately 4,200 young could be involved in and benefit from the project.

The young people noted the time scales that the physical activity task force has set to improve the situation in Scotland. Some of the time scales are quite extended—up to five or 10 years, in some cases. They confidently predicted that, with the right motivation and drive, they would be able to have a meaningful impact on participation in sport within one year. That is something that the minister might like to note.

Like other members, I simply want to wish those involved every success with their excellent initiative. It meaningfully embodies equality and social inclusion, and I wish them all the best for the wider work of the CAFE Project.

16:42

**Donald Gorrie (Central Scotland) (LD):** Well done to Andrew Welsh and even better done to the CAFE project. Like Irene McGugan, I was enthused by the presentation to the cross-party group.

We can learn some lessons from the initiative. There are a lot of good individual projects throughout Scotland, which other members have mentioned. There are certainly plenty in central Scotland, such as the Edinburgh City Youth Cafe, which is just round the corner from the Parliament. There are a lot of good examples, but there are

not enough of them. As a country, we just do not develop. We need perhaps five times as many youth facilities as we have at the moment and they need to be more evenly spread.

It is a great strength of the CAFE project that there is heavy youth involvement in the management. That is very important. Those involved have hit on imaginative things, such as the football project, which I think has tremendous potential. What we have to crack, and what the minister has to crack, is a way of developing things from the bottom. I entirely agree with other members that we do not want to parachute in. There is no point in dropping a nice new football thingamy on a group that is sound asleep and does not really want it. We have to enthuse people to go for this project, or for other projects, and we must give them financial support.

We have a tricky problem with national policy and getting Government money into local bodies. We have to encourage the local authorities to do that, and some do it much better than others. In addition to what local government does, we must have a direct line to existing youth facilities and to allow us to encourage more facilities.

We could have a million of these football stadia for the cost of one jail—I have not done the sums, but I imagine that that must be right. We do not need a million, but we need a lot more than we have. I hope that the minister will have a programme ready, so that when it is demonstrated in a few months' time that the programme works, we can offer the facility to lots of other people, provided that they have a viable local group to take it on.

We also have to develop more groups, get more young people involved and get more adult volunteers. It is unfortunate that the present climate deters a lot of people from volunteering. I do not mean the cold outside, but the blame culture and the need to have insurance cover and to fill in thousands of forms before people can help. We have to protect our young people—that is fair enough—but we have to do it in such a way that we do not discourage adults from helping young people. In my experience, we can get adults to help with children of primary school age, but it is difficult to get adults to help with teenagers, because they are afraid of them. We have to crack that.

A lot of lessons can be learned. I hope that the minister can think how we can best deal with the issues. If 0.01 per cent of the relevant budgets of health, sport and police were put into this sort of work, it would revolutionise Scotland. We have to take that approach. Prevention is better than cure. We have to provide something positive for young people to do and credit should be given to the CAFE project for doing that.

16:46

**The Deputy Minister for Social Justice (Des McNulty):** I, too, congratulate Andrew Welsh on securing the debate on his motion. I got to know him well when we were both members of the Scottish Parliamentary Corporate Body and I know of his great pride in being the representative of Angus and the interest that he takes in the welfare of his constituents in Arbroath. We can talk about success in a positive way in that context.

As Alex Johnstone pointed out, the Community Alcohol Free Environment project—to give CAFE its full name—was established as a charity in July 1996, following an open meeting of the Arbroath and district crime prevention panel seminar on juvenile delinquency. We can all agree on the value of the CAFE project in promoting personal development and health and in providing employment, education and training services. It also provides an alternative to life on the streets, where young people at risk from exclusion, alcohol and substance misuse and delinquency can socialise and participate in a wide range of activities in a safe environment.

I understand that it is open six nights a week and caters regularly for 250 young people. A wide range of activities is offered, including internet access, pool, table tennis, air hockey and darts, and there are electronic games consoles and a television. In addition, outdoor activities and trips are organised, including skiing, mountain biking, gorge walking, youth club visits, five-a-side football and the football project to which Andrew Welsh referred. While he was talking about the project, I was thinking that such initiatives might also deal with Donald Gorrie's point about no sectarianism—perhaps Alex Ferguson could learn from them not to repeat what happened last weekend.

The Executive is totally committed to tackling drugs misuse and we recognise its impact on young people, families and the wider community. In addition to other expenditure, we have invested in the future of young people by making funds available through the drugs element of the changing children's services fund. The Scottish Executive's plan for action on alcohol problems offers a chance to reduce significantly the harm caused by alcohol in Scotland and recognises the importance of education and prevention in tackling alcohol misuse. The strategy acknowledges specifically the work of the CAFE project as an example of how the Executive's policy has been given practical effect.

I agree with Keith Raffan that our young people should have access to well-supported venues where they can meet in a safe environment and where they are encouraged to participate in constructive social activities. Those activities do

not necessarily have to be fully organised and focused. Just having a place to meet friends helps young people to strengthen their networks and gives them a greater degree of involvement with their communities. It is important to recognise the importance of community involvement beginning at a young age. We want to inculcate the habit of getting involved in community activity in all our young people. That is one of the commitments that they can make to their future and to that of the community.

As has been highlighted, more structured activities also bring great benefits. Involving young people in decision making and organising events helps them to develop life skills. As well as acquiring practical skills, such as analysis, communication and team working, they develop increased confidence in their abilities.

Jamie Stone pointed out the importance of the Highland youth parliament. When the Scottish youth parliament launches its manifesto next week, the First Minister and Cathy Jamieson will be in attendance. This year, we funded the Scottish youth parliament to the tune of £82,000. We will continue to fund that activity, even though the youth parliament does not agree with every dot and comma of Scottish Executive policy. It is important that people have the opportunity to talk for themselves and to present their views.

The Arbroath project has benefited from work that is being developed through the dialogue youth pilots and the Young Scot initiative. The Executive has provided £1.9 million for the development of three pilots in Angus, Argyll and Bute and Glasgow. The pilots have established a groundbreaking framework for the provision of services to young people, who are now making important decisions on how they want public services to be delivered.

As part of that development, a network of access portals has been created that gives access to the council broadband network. Local voluntary youth work providers, such as the CAFE project, have been given access to that network. Part of the Executive's funding has covered the cost of installing the communications equipment that offers high-speed, low-cost broadband access. I am sorry that Kenny MacAskill is not here to hear about that broadband access.

All the partners agree that the pilots have been a major success. More important, the young people who have been involved in their development and use have voted them an overwhelming success.

Donald Gorrie mentioned the roll-out of the initiative. The Executive will provide a further £5.4 million to roll it out in other local authority areas. I am sure that members would agree that supporting such an exciting and successful innovation is a first-class use of our money.



In considering how we can take a more co-ordinated approach to youth work, we must develop a better understanding of how each of the sectors that are involved can work together and of how those relationships can be enhanced to ensure that the best possible service is delivered throughout Scotland.

Last April, we announced that YouthLink Scotland, which already represented and supported voluntary youth organisations, had taken on a greatly expanded role. YouthLink is doing two key pieces of work in support of a more co-ordinated approach.

First, the role that YouthLink can play in helping co-ordinated working between the statutory and voluntary sectors, between central and local government and between departments therein is being developed. That will enable historic barriers to be overcome. Secondly, we have asked YouthLink to carry out a mapping exercise of youth work provision throughout Scotland, which will cover the voluntary and statutory sectors. That will help to identify any gaps between supply and demand, record examples of good practice and flag up areas of duplication. Once the exercise has been completed, we will be in a much better position to know what action is needed, where it is needed and what might be the most effective way to deliver results.

Those are important developments in the delivery of services to young people and in our efforts to engage young people more actively in our, and their, society.

The motion has been lodged to celebrate the achievements of the CAFE project in Arbroath. I am happy to celebrate those achievements. As Irene McGugan pointed out, the lodging of two motions for debate is testament to those achievements. Every speaker has commended the work that has been done. I congratulate everyone who has been involved in those achievements, which I hope lay the foundation for much more good work in years to come.

*Meeting closed at 16:54.*



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