

# **MEETING OF THE PARLIAMENT**

Wednesday 19 January 2000  
*(Afternoon)*

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## Scottish Parliament

*Wednesday 19 January 2000*

*(Afternoon)*

[THE PRESIDING OFFICER *opened the meeting at 14:30*]

### Time for Reflection

**The Presiding Officer (Sir David Steel):** We welcome to lead our time for reflection today the Reverend Norman Shanks, leader of the Iona Community.

**The Reverend Norman Shanks (Leader of the Iona Community):** I appreciate very much the invitation to lead time for reflection today—personally and on behalf of the Iona Community. Many of the community's members have worked towards the creation of this Parliament, and the community's fundamental commitment to the building of a just and peaceful society in which all may flourish, and to responding to people's deepest longings and highest aspirations in new and creative ways, clearly resonates with the exciting challenges and opportunities facing all who are involved here.

This is the week of prayer for Christian unity, but it is a time for affirming also that God's purpose is for the unity, harmony and joy not only of Christians, but of all people within this nation and beyond. We look to our political leaders and representatives to pursue those goals and seek the common good, and in so doing we pray that you will be granted what one of our Iona prayers describes as the gifts of "courage, faith and cheerfulness".

May you be blessed with courage, the readiness to dream and the strength of purpose to turn the visions into reality. May you be blessed with faith—the conviction and sense of values that energise, give direction and subordinate self-interest to concern for the other. May you be blessed with cheerfulness—a spirit of openness, generosity and, above all perhaps, resilience.

Part of the poem for the millennium by the Booker prize-winning writer Ben Okri expresses in an inspiring and wonderful way the precious and powerful significance of these times:

We cannot use the word civilisation  
As long as people die of starvation  
Those who do are cave dwellers  
Of the mind . . .

We are functioning below  
Our potential for love,  
Justice, and creating a good world.

New worlds wait to be created  
By free minds that can dream unfettered,  
Without fear, turning obstacles  
Into milestones towards luminous glories.

For we are each one of us saviours  
And co-makers of the world we live in.  
But we should begin now, here,  
Among one another,  
And in solitude.

Never again will we stand  
On the threshold of a new age  
We that are here now are touched  
In some mysterious way  
With the ability to change

And make the future  
Those who wake to the wonder  
Of this magic moment,  
Who wake to the possibilities  
Of this charged conjunction,  
Are the chosen ones who have chosen  
To act, to free the future, to open it up,  
To consign prejudices to the past,  
To open up the magic casement  
Of the human spirit  
Onto a more shining world.

As another Iona prayer puts it, O God, you have set before us a great hope that your kingdom will come on earth, and have taught us to pray for its coming: make us ever ready to thank you for the signs of its dawning, and to pray and work for the perfect day when your will shall be done on earth as in heaven. Through Jesus Christ our Lord. Amen.

Finally, a Celtic blessing:

Deep peace of the running wave to you,  
Deep peace of the flowing air to you,  
Deep peace of the quiet earth to you,  
Deep peace of the shining stars to you,  
Deep peace of the Son of Peace to you. Amen.

## Air Quality Strategy

**The Presiding Officer (Sir David Steel):** The first item of business this afternoon is the statement by Sarah Boyack on the air quality strategy. The minister will take questions at the end of her statement, so there should be no interventions. I will allow about 20 minutes for questions.

14:35

**The Minister for Transport and the Environment (Sarah Boyack):** Everyone has a right to expect that the quality of the air that we breathe will not be detrimental to our health and our quality of life. However, poor air quality can be one of the triggers for asthma attacks among the 3 million asthma sufferers in the UK. Only yesterday, my colleague Susan Deacon met organisations to talk about the impact of asthma. In Scotland alone, it is estimated that 10 to 15 per cent of children and 5 to 10 per cent of adults suffer from asthma. Pollution can exacerbate the condition of those who are already ill and it contributes to the hospitalisation and early death of thousands of people every year.

Air pollution hits hardest the most vulnerable in our society, in particular the old and young. It tends to be worse in our heavily congested inner-city areas, where it exacerbates the poorer quality of life and higher social deprivation. However, even for healthy adults, air pollution has an effect on the overall quality of life. In addition, its effects are more obviously seen by all of us through damage to our urban environment, buildings and countryside.

I am pleased, therefore, to announce the publication today of "The Air Quality Strategy for England, Scotland, Wales and Northern Ireland". Copies are available for those who are interested.

The national air quality strategy was first published in March 1997. It fulfilled the requirement, under the Environment Act 1995, for a national strategy setting out policies for the management of ambient air quality. In July 1997, the new UK Government endorsed the strategy and implemented it so that local authorities could begin the process of local air quality management. The strategy gave local authorities a new responsibility to review and assess air quality in their area and to take action when air quality objectives were unlikely to be met. However, the Government felt that more could be done to improve air quality, and an immediate review of the strategy was announced, to look at the prospects of delivering cleaner air more quickly.

Tackling air pollution is one of my top

environmental priorities, which is why, as soon as I came into office, I endorsed the revision of the air quality strategy. Throughout the process, officials in Scotland have worked closely in partnership with the Department of the Environment, Transport and the Regions, the National Assembly for Wales and the Northern Ireland Department of the Environment.

Today, with the publication of the comprehensive new air quality strategy, I am delivering the results of that partnership. It will deliver real air quality benefits and a significant reduction in pollutants. The new air quality strategy sets out the strategic framework within which air quality policies will be taken forward in the short to medium term.

The strategy sets out air quality standards, with objectives to be met for eight of the major air pollutants. The original attainment date for all pollutants was the end of 2005. The revised strategy sets tougher objectives for benzene, 1,3-butadiene and carbon monoxide, bringing forward the attainment dates for those objectives to 2003, and for nitrogen dioxide reduction to 2004. The most positive outcome is for lead. Current policies enable the date for achieving that objective to be moved forward from 2005 to 2004, with a much tighter objective, halving the present one, to be set for 2008.

The hourly and daily objectives for sulphur dioxide have also been brought forward to 2004, although the 15-minute objective remains unchanged. The ozone objective remains unchanged, pending the final form of the proposed national emission ceilings directive and negotiations on the United Nations environment committee multi-pollutant protocol. There is more work to be done there.

The objective for particles has been replaced for the time being with the less stringent European Community limit values. The shift of the objective to the EC limit values drew the most comment during public consultation on our plans to review and revise the strategy. We have carefully deliberated on the responses received to the proposal to make that change.

The original strategy objective for particles was set on the basis of the best available knowledge at that time. We now know from the extensive work carried out by the airborne particles expert group that the objective is simply not achievable, at least in the short term. That is due in part to the contribution that pollution from mainland Europe makes to particle levels in this country.

We are anxious to ensure that the strategy objectives are seen to be challenging and achievable. If they are to be regarded as serious policy aims, it is particularly important that they are

seen as realistic in terms of being achievable. With that in mind, it was decided that action should be concentrated in the short term on achieving the EC limit values by 2004, as that is the only internationally recognised alternative target. That target was set following recommendations made by the World Health Organisation. However, it is important to emphasise that the EC limit values should be seen as a staging post and not the final outcome; it gives us a chance to gear up on particles.

In view of the importance of the health effects of particles, I am anxious to set my sights beyond the immediate need to comply with the EC limit values. Work is already under way UK-wide to consider further the health effects of particles, the costs and benefits of reducing particles and the effects of recent policy developments on particle levels.

On completion of the review of local air quality management by local authorities and assessments by June this year, we will have access to a comprehensive and complete record of air quality throughout Scotland. That will be hugely beneficial and will allow us to progress further. While we generally enjoy good air quality in Scotland, it is quite possible that the outcome of the review will demonstrate that our urban areas share many of the air quality characteristics of towns and cities throughout the UK—dominated by pollution from transport emissions.

However, given Scotland's unique geography, I have asked my officials to consider the data contained in the reports so that I can decide whether there might be scope to introduce a more stringent objective for particles, to ensure that the people of Scotland continue to enjoy cleaner air. I would hope to be in a position to announce my decision on that by the end of the year.

Air pollution is trans-boundary by nature—it does not respect boundaries or borders. For that reason, many of the problems associated with poor air quality need to be tackled at international and European levels. Many of the objectives set in the strategy will help to ensure that Scotland meets its obligations under the EC air framework directive. However, the strategy recognises that international and national measures may not always be specific enough to tackle localised pollution. That is why local authorities have been given responsibility for local air quality management. They are best placed to identify air pollution hot spots and to take action that will be effective in tackling the problem.

The outcome of the review that Scottish authorities are undertaking will, for the first time, allow us to ascertain whether there are any air quality characteristics that are particular to Scotland. Should any specific Scottish issues be

identified, I will consider whether they need to be addressed through separate Scottish policy measures, or by the possible establishment of an air quality strategy for Scotland.

The process that led to the publication of the new strategy today is an example of open government. Monitoring progress towards the objectives set in the strategy will be equally open. The regulations bringing into force the new objectives set out in the strategy will be laid before Parliament within the next few days and will be subject to an affirmative resolution.

An important challenge will be to raise public awareness of air quality issues, so that they are taken into account at all levels of decision making. I intend the new strategy to provide a sound framework against which decisions can be taken. We all have a part to play in ensuring that things work together—from town planners deciding on the site for a new superstore and transport planners making decisions on traffic management, to each of us as individuals making our daily transport choices.

The publication of the air quality strategy today brings cleaner air a step nearer to everyone across Scotland. The strategy is an important part of our drive to protect public health and our environment and to secure lasting improvements to air quality.

**The Presiding Officer:** I remind members that I would like short questions—not statements.

**Mr Kenny MacAskill (Lothians) (SNP):** The Scottish National party welcomes the minister's statement. I have never given great credence to consensus politics, but this is an area in which we can work together. I take on board the fact that while we recognise that we have local initiatives, we must also have international action.

With regard to the objective on PM<sub>10</sub> particles, I note that the advice of the expert panel for an excess limit of four days has been derogated to one of 35 days. On how many days, at the sites that are monitored at present, was the 35-day limit breached? If the answer is none, or on very few occasions, why are we aspiring to such a low level instead of the previous high level—of four days—suggested by the expert panel?

**Sarah Boyack:** I am nervous that consensus might be breaking out, but Kenny MacAskill's points are important in relation to the whole issue of particulates.

The information on last year's figures will be available in April and, at that point, we will be in a better position to examine the number of days on which those limits have been breached. What is critical is that we are not at the end point of where we want to be on particulates. There are other

problems with particulates. For example, PM<sub>10</sub> is nasty and causes major health problems if it gets into people's lungs, and PM<sub>2.5</sub>, which is even smaller, causes us even more damage. Re-examining particulate levels at the end of this year will give us an opportunity to consider in much more detail the issues raised by Mr MacAskill and to consider the very small particulates, which are invisible but have a genuine impact on health.

In the meantime, we will go full steam ahead with our programme to ensure the implementation of particulate traps for lorries. A Government scheme encourages the implementation of such traps through vehicle excise duty reductions.

I accept Mr MacAskill's point: we are not at the end point and we need to do more surveying, but much can be done over the next year before we review particulates again. I also accept his point about specific Scottish issues on which we could make progress on particulates. I want to take the next year to look at that in much more depth.

**Mr Murray Tosh (South of Scotland) (Con):**

As a much more consensual politician than Kenny MacAskill—indeed, as a much more reasonable person in every way than Kenny MacAskill—I also welcome the minister's statement. She said that air quality was a top environmental priority for her; I am sure we could say that it is for all of us.

I have some questions about the minister's comments on vehicle emissions, about which I am aware that some matters are reserved while others are devolved. The minister will be aware of devices such as FuelMaster, which can be attached to cars to reduce emissions. Does the minister agree that there would be merit in assessing the range of such products on the market in an attempt to identify and promote products whose use might be encouraged—if not ultimately made a standard fitting on a car—further to reduce emissions?

Does the minister accept the principle of fiscal incentives to improve emission levels? It is clear that such incentives worked in the case of lead-free petrol. Will she agree to make representations through the normal channels, when she speaks to the Chancellor of the Exchequer, for a joined-up governmental approach on the matter? Such an approach could establish a network of fiscal incentives for the more environmentally friendly fuels at the frontier of new technology, such as liquefied petroleum gas and compressed natural gas. Such fuels are still a bit experimental, but will develop more rapidly if their use is encouraged by financial incentives.

**Sarah Boyack:** I will take the consensual route yet further by saying that Murray Tosh's comments on vehicle emissions are highly appropriate, in the sense that one of the ways in which we can

improve our air quality is to improve the standards that are applied to new vehicles. There is an EU agreement on that, which will bring about real improvements in air quality. However, we cannot be complacent.

A number of initiatives are taking place across government—the power-shift initiative, in which we invest resources, is a good example. I have visited one or two demonstration projects to see the cars and vans that are out and about. The initiative encourages private companies to change over to more innovative fuels such as LPG, and to use low-sulphur and electric vehicles. The Scottish Executive uses a number of such vehicles for its own transport and is encouraging their wider use.

We need to make people aware that such choices are becoming available. A good way to do that is by using the Government's advertising capability and power to raise awareness. We need the facilities to enable us to fill up those vehicles with innovative fuels; that key issue is under consideration by the Executive and the UK Government.

Catalytic converters and the reduction and elimination of lead in petrol are good examples of how vehicle technology has improved. It is critical to look for the areas in which most impact can be made, as fast as possible. This air quality strategy allows us to monitor that.

**Tavish Scott (Shetland) (LD):** The temptation to break this consensual approach is nearly too much for me.

Has the minister considered the evidence that was presented by Friends of the Earth on Monday? Its head of research said:

"Most pollution comes from road traffic and improved technology will not be enough—we must have fewer vehicles on the road."

Does the minister accept the evidence that unless reductions in vehicle emissions are tied to road traffic reductions—which are opposed by both the Tories and the SNP—we will not meet these air quality standards?

**Sarah Boyack:** Tavish Scott referred to the figures that Friends of the Earth discussed this week. I will comment in particular on the figures relating to ozone. The ozone problem will not be solved overnight. It is not just a UK problem; much of it is imported. That is why we need international agreement on tight environmental standards. The UK is playing a full part in delivering those standards. The agreement on sulphur dioxide, nitrogen oxide, volatile organic compounds and ammonia that was reached by the United Nations environment committee in the past year will be critical to reducing the amount of ozone.

We had high levels of ozone last year because

we had an excellent summer in Scotland. Photochemical reactions created an ozone problem. We know that that causes serious problems for health. We cannot be complacent about ozone, but we must tackle the problem through international measures.

Dealing with road traffic has to be part of our strategy for air quality. Murray Tosh's point about improving vehicle emissions is also critical. I hope to speak to Parliament soon about improving transport choices, in the context of the integrated transport bill.

Local authorities will be important in identifying hot spots—where the worst areas for air quality are—and must develop traffic management solutions that can be put in place locally. Local authorities must give a message to people to make better transport choices—they must encourage people to walk or to cycle, which are healthy options, and ensure that the air is clean for them to do that. They must generally promote sustainable forms of transport.

Emissions from cars and lorries are an important, but not the only, part of the picture, and the ozone figures, too, must be considered.

**Robin Harper (Lothians) (Green):** Again, I do not want to break the flow of consensual politics from my colleagues on the Transport and the Environment Committee, Kenny MacAskill, Murray Tosh and Tavish Scott. The Green party generally welcomes the tenor of the minister's report. Anent the problems that are caused by Europe, many environmental regulations, and some good ideas, come from Europe. Will the minister give active support to European car-free day, later this year?

**Sarah Boyack:** I talked about that with the transport commissioner when I was in Europe a couple of months ago. In the past few weeks, there have been experiments in Italy to find out what would happen if people got on their bikes, walked or used buses. We might want to consider that idea in the future.

There is a range of things that we could do to implement European directives. The air quality directive is critical. We need to play a full part in Europe. We must examine the best practice of other countries, pick up on innovative ideas and ensure that we have a dialogue so that we take a collective responsibility for the impact of emissions, whether they come from this country or elsewhere. I am keen to consider new ideas and best practice, which can be promoted in the Scottish Parliament.

**Elaine Thomson (Aberdeen North) (Lab):** I wish to ask the minister about air quality problems that are caused by sources other than transport. What are the key problems, and what could local authorities do about them?

**Sarah Boyack:** Monitoring through the air quality management process enables local authorities to pick up on the key local problems. That is a critical way in which to bring transparency to the process.

The Scottish Environment Protection Agency also has an important role to play, as many non-traffic-related pollutants come from industrial processes. Part of the strength of the air quality strategy is that it must link into monitoring pollutants produced by different businesses, to ensure that the best environmental techniques are available to those businesses and that they are capable of meeting the targets that are set in the strategy. Therefore, it is important to focus on the full range of pollutants that exist and to consider the different mechanisms for tackling them.

Local authorities have a key role to play in identifying hot spots. We must ensure that there are links between SEPA and local authorities, on their planning and monitoring powers, that there is joined-up thinking by local authorities, SEPA and the Scottish Executive and that there are also links into local businesses.

**Helen Eadie (Dunfermline East) (Lab):** The minister has every reason to be delighted with her visit to the Transport and the Environment Committee this morning. She left everyone in a state of consensus—it would seem that we are all in love with one another this afternoon. Probably that will not last long, but I have no intention of saying anything to spoil it.

Tavish Scott ran away with the thrust of my question, which was about Friends of the Earth, so I had to sit here, Presiding Officer, thinking quickly of another question.

**The Presiding Officer:** It is not compulsory.

**Helen Eadie:** How does the minister propose to use the measurements of air quality that are being taken by local authorities to inform some of her other deliberations, on expenditure plans?

Scott Barrie will forgive me if I allude to Kincardine bridge and the possible need for a bypass for Kincardine, which has one of the highest levels of air quality problems.

**The Presiding Officer:** I do not think that we will ask the minister to deal with transport questions. Please stick to the subject, minister.

**Sarah Boyack:** That was an extremely creative question. I look forward to an outbreak of consensus when I introduce my transport proposals.

The local authority measurements will be particularly useful to us this year. They will bring a transparency to local hot spots and will allow us to identify where the key problems lie in Scotland.



They will also allow us to link into other policies.

In my statement, I said that the measurements will allow us to examine the issue of particulates in a bit more depth, once we have the recommendations from the panel on air quality. By joining those pieces of information together, I hope to be able to look more sensitively at some of the issues that may be specific to Scotland. Local authority monitoring will be vital to that process.

**Linda Fabiani (Central Scotland) (SNP):** I seek further clarification from the minister. Given that carbon dioxide is a major pollutant and that SEPA has identified the need to tackle carbon dioxide pollution along with other air pollutants, why does it not feature in the national air quality strategy?

**Sarah Boyack:** The principal reason why carbon dioxide is not a key part of the strategy is that we are already working towards meeting other requirements on carbon dioxide, on which we must deliver because of our international obligations. However, members will notice that carbon monoxide is covered in the report. We have tightened our objectives on carbon monoxide by bringing them forward by two years.

The report identifies eight pollutants and I am happy to discuss them with Linda Fabiani later, should she wish.

**Des McNulty (Clydebank and Milngavie) (Lab):** Given the strong causal link between traffic congestion and air pollution, will the minister consider linking air pollution targets with targets for tackling traffic congestion, working with local authorities to achieve progress on both fronts?

**Sarah Boyack:** It is not only people who live in congested areas who are affected by the pollution caused by traffic congestion. One of the main groups of people affected are those who experience traffic congestion sitting in their cars. We must tackle that problem by piecing together the information received from the local air quality strategies while, at the same time, considering recommendations from local transport strategies. If we can begin to make those links between air pollution and traffic management schemes at a local level we will, I hope, reduce some of the air pollution that we experience.

The process of air quality management has already raised such issues in certain local authorities. For example, we know that in the bigger cities, where the key problems lie, transport planners and local authorities are already beginning to turn their minds to questions such as, "What are the right traffic management opportunities?" and, "How can we provide solutions at a local level?"

**Dorothy-Grace Elder (Glasgow) (SNP):** This afternoon, we are in danger of a bit of hot air

pollution, with the overworking of piteous little clichés, such as joined-up government, strategy, consensus and my old friend, transparency.

However, I will move on. Does the minister agree that there are various forms of air pollution, including smells—[*Laughter.*]—yes, smells? Does she propose to alleviate the suffering of people who live near toxic dumps and other landfill sites? The foul odours from such dumps do not, as the minister will accept, necessarily contain large particles, but the smells, according to a report from Glasgow City Council's public health and environmental service, can be "literally breathtaking". The report was referring to Paterson's dump in Mount Vernon, which is in a built-up, residential area, where people are suffering. Will the minister therefore investigate the closure of dumps that put large areas under virtual siege by smell, and which benefit only their rather rich owners?

**Sarah Boyack:** Following correspondence with Margaret Curran, I am also aware of her interest in the matter. I know that Dorothy-Grace Elder has raised it before.

We need to address a range of air pollution problems. The discussion that we had at the Transport and the Environment Committee meeting earlier today focused on how to tackle the problem of landfill throughout Scotland; how to reduce the waste that we create in the future; and how to deal with it in more environmentally friendly ways. It is a major challenge, and the national waste strategy is probably the way to deal more effectively with the issue that Dorothy-Grace Elder raises.

**Phil Gallie (South of Scotland) (Con):** Can the minister comment on the importance of the nuclear industry in controlling the output of noxious gases?

**Sarah Boyack:** The prime issue for the nuclear industry is more one of safety, rather than the smells—

**Phil Gallie:** I was referring to the output of noxious gases from other forms of fuel generation.

**Sarah Boyack:** Nuclear power is dealt with by a series of management practices. SEPA is the main authority dealing with it in Scotland. It does not come under the air quality strategy. It is another issue that we can discuss on another day in relation to waste management practices.

## Sexual Offences (Amendment) Bill

**The Presiding Officer (Sir David Steel):** The next item of business is the debate on motion S1M-430, in the name of Mr Jim Wallace, on the Sexual Offences (Amendment) Bill, with an amendment to that motion. You have up to 15 minutes, Mr Wallace.

15:02

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** The motion seeks the agreement of the Scottish Parliament to the passage of the Sexual Offences (Amendment) Bill through Westminster, although it is accepted that the bill's provisions fall within this Parliament's competence.

The proposal is that a bill to equalise the age of consent for homosexual and heterosexual activity and to introduce a new offence of abuse of trust should be introduced and dealt with by Westminster. The bill's scope would extend to Scotland.

Many members will already be familiar with the background to the Sexual Offences (Amendment) Bill, which received thorough debate in Westminster last year. I would like to take a few minutes to set out what the bill does and does not do. I will then explain why the Executive believes it right to allow the bill's passage in Westminster despite the fact that it covers devolved matters.

The bill does three main things. First, it equalises the age of consent for homosexuals with that for heterosexuals at 16 years of age. Secondly, it decriminalises the younger party in cases where someone below the age of homosexual consent has sexual intercourse with someone over that age. Thirdly, it introduces a new offence of abuse of trust.

I would like to say a little more about each of those. I accept that the homosexual age of consent is a sensitive issue. For many people, it has considerable moral or religious significance, and I do not make light of such genuinely held beliefs. However, I firmly believe that people in Scotland expect and welcome equality before the law. Such equality is a basic human right and is something that I, as a Liberal Democrat, have long promoted.

The determination with which the United Kingdom Government is pushing ahead with this bill is commendable and I hope that that will be welcomed not only by Labour and Liberal Democrat MSPs, but by SNP and Conservative members.

As I said, I believe in equality before the law. However, the criminal law is currently not equal in its treatment of young homosexual men and young heterosexual men. I hope that even those who regard homosexual activity as undesirable will accept the need to ensure that there is fairness and equality under our criminal law.

I should make it clear that equalisation is not about encouraging young people to enter into sexual relationships, nor is it about relaxing for one second our protection of young people from unwanted sexual attention. Equalisation is about respecting all people and their right to enter into equal relationships of their choice without fear of the criminal law.

All parents worry when their children reach adolescence and sexual maturity. Children differ; some are physically and emotionally more mature than others. However, at 16, many young men and women enter into sexual relationships. There is not equality before the law when, as currently, two young men of 17 in a consenting relationship are criminals whereas a young man and a young woman of the same age in a consenting relationship are not.

We are not advocating sexual licence. Parents will still offer advice to their children, as will children's peers, teachers, doctors, youth workers and others. However, if the bill is passed, the law will no longer make criminals of young men simply because of their sexual orientation.

The second part of the bill that I will mention centres on the decriminalisation of the younger party, which is another fundamental question of equality under the law. At present, if a man over the age of 16 had a sexual relationship with a girl under the age of 16, only he would be guilty of an offence. It is different for homosexuals, as both the older and the younger man are offenders. That is discrimination. Moreover, it is also potentially harmful, as a young person might be deterred from seeking medical or emotional advice because of the fear of prosecution. The bill would remove the anomaly—and the fear—and ensure that only the older party would be subject to criminal sanctions. It strengthens the protection given in law to young people without devaluing the seriousness with which we view those who abuse minors. That seems absolutely right to me.

Thirdly, the bill would introduce a new offence of breach of trust, which is designed to protect the most vulnerable children and young people. I should stress that those provisions apply irrespective of gender and sexual orientation and are not concerned with non-consensual sexual relationships, which are already covered by the criminal law and will continue to be so.

The aim of the new offence is to protect 16 and

17-year-old girls and boys who are in particularly vulnerable situations, such as detention or residential care, and who could become victims of an abuse of trust. Those young people might feel unable to withhold consent to a sexual relationship because of the position of authority held by the older person.

The bill specifies four sets of circumstances that would constitute positions of trust. Those circumstances are where a person aged 18 or over is regularly involved in caring for, training, supervising or being in sole charge of a person under 18, first, while the younger person is in full-time education; secondly, while the younger person is detained under certain court orders or enactments, including where the younger person is detained as a result of the criminal justice system or penal system, under the immigration or mental health acts, or under military law; thirdly, while the younger person is looked after by the local authority, in foster care, residential care or semi-independent accommodation; and, fourthly, while the younger person is in a hospital—including private hospitals—nursing home, children's home or other institution providing health and/or social care.

When the bill is enacted, it will be an offence for someone in a position of authority in such circumstances to have a sexual relationship with the young people whom they look after. Penalties for people convicted of the offence would range from six months' imprisonment and/or the statutory maximum fine—currently £5,000—for convictions under summary procedure, to five years imprisonment, an unlimited fine or both for the most serious cases dealt with under solemn procedure.

The creation of such an offence should not be seen as a suggestion that all, or even many, of those in a position of trust would ever seek to abuse that trust. The vast majority of those in such a position are responsible and dedicated people whose primary concern is for the well-being of the young people in their charge. However, we have to accept that some people in those positions of trust—albeit a very small minority—may seek to exploit the vulnerability of the young people whom they look after. Many professional bodies and other organisations have codes of conduct, but we feel that the new offence is necessary to provide added protection for the most vulnerable young people in the situations covered by the bill.

I readily acknowledge that important civil liberties issues are involved. However, we have to weigh those issues against the right of young people to protection against those who may seek to exploit their vulnerability. I believe—I hope that Parliament shares the belief—that the balance should be tilted in favour of the young people.

We intend to issue guidance on the bill's provisions relating to the abuse of trust. That guidance will be addressed not only to organisations working in areas covered by those provisions, but to other organisations whose activities bring them into regular contact with children and young people. The guidance has already been the subject of consultation—when the bill was first introduced—and respondents were positive about its value.

**Phil Gallie (South of Scotland) (Con):** Will the minister say a little more about the consultation? When, and in what parts of the country, did it take place?

**Mr Wallace:** I intended to deal with that point while addressing Mr Gallie's amendment, but I can tell him now that the abuse of trust provisions were put out to consultation during 1998, and that more than 20 organisations in Scotland alone gave their views on the creation of a new offence and on the form that it might take. That consultation took place when the Westminster legislation was proposed, and before the introduction of the bill that was frustrated last year in the House of Lords.

The motion invites this Parliament to consent to this bill going through the Westminster Parliament, even though it is a measure that this Parliament could quite competently enact. As has been made clear, the subject matter is not reserved to Westminster. The issues in the bill fall within the criminal law and, in normal circumstances, they would be for this Parliament to debate. However, the Executive firmly believes that there is a strong case—an exceptional case, yes, but nevertheless a strong case—that this Parliament should allow the bill to proceed through Westminster.

I shall explain briefly why we believe that. First, the bill has already been fully debated. It received thorough and detailed consideration in its various House of Commons stages last year and won overwhelming cross-party support. However, as many members of this Parliament will be aware, an amendment was tabled during the bill's passage through the House of Lords to stop its further passage. The bill is, therefore, very much unfinished business. It is a Westminster bill and there is a logic in its returning to Westminster.

Secondly, there is an existing obligation on the United Kingdom to fulfil its commitments under the European convention on human rights to equalise the age of consent. That obligation results from an on-going case that is currently on hold pending the UK Government's fulfilment of a commitment to equalise at the earliest possible opportunity. The Sexual Offences (Amendment) Bill represents the best opportunity for that to be taken forward speedily.

The bill's passage can be ensured—in the event

of further opposition and disruption from the House of Lords—only if the Parliament Acts are used. An invocation of the Parliament Acts requires an identical bill to be introduced in Westminster—hence the need for the Scottish provisions to remain in what is a UK bill. If the UK Government were to remove the Scottish provisions from the bill, the Parliament Acts could not be used and—both here and in Westminster—we would be left looking for legislative time to debate a new bill. Therefore, if this Parliament were to insist on considering the legislation here, we would effectively delay the attainment of equality before the law by young men throughout the whole of the United Kingdom.

I should make it clear beyond question that agreement to the bill's return to Westminster does not in any way undermine the right of this Parliament to consider these issues in future. The First Minister has already confirmed in a statement to Parliament on 9 June that, subject to the requirement to comply with the European convention on human rights, the Scottish Parliament will have the power, if it so wishes, to amend or repeal any Scottish provision enacted by the passage of Sexual Offences (Amendment) Bill. That commitment holds now and for the future. Allowing the bill to proceed on a UK basis will not prevent future legislative changes at Holyrood if that is the wish of the Scottish Parliament.

I turn to Mr Gallie's amendment. For the reasons that I have outlined, the Executive regrets what we believe to be an unhelpful amendment, which seeks to delay further the progress of the matters contained in the draft bill. As I indicated to the convener of the Justice and Home Affairs Committee, we could have considered accepting the amendment and remitting it to the committee to undertake the consultation. However, that was just a flight of fancy and I think that I might have been lynched by the convener if I had suggested that in earnest.

As I hope I have made clear, the proposals to equalise the age of consent and introduce an offence of abuse of trust have been in the public domain for a long time. There are no surprises in the bill, which is identical to the one that proceeded through the House of Commons and was frustrated in the House of Lords almost a year ago. There are no hidden issues and we are not trying to pull a fast one on the Scottish people.

As I said in response to Mr Gallie's intervention, the provisions on abuse of trust were put out to consultation in 1998; more than 20 organisations in Scotland provided thoughts on the creation of a new offence and the form that it might take.

The decision to support the reintroduction of the Sexual Offences (Amendment) Bill was announced by the Executive last June, as was our

commitment to seek the agreement of this Parliament. That intention was given wide publicity at the time and was presented unequivocally. We are fulfilling the commitment that we made then by having this debate today.

During the debate in June, Mr McLetchie responded to the First Minister's announcement by saying that

"the Scottish Conservatives, as a unionist party, have no problem in accepting that some acts—even those that cover devolved areas—should be enacted uniformly across the UK."—[*Official Report*, 9 June 1999; Vol 1, c 362-63.]

That is a more welcome and constructive view than the one set out in Mr Gallie's amendment. I suggest that, if Mr Gallie had difficulties with what was proposed, he should have taken the opportunity to raise his concerns during the intervening months.

What we are proposing is a practical step that in no way undermines the Scottish Parliament's powers. Let us take this opportunity to show that Scotland's Parliament can recognise and respond positively to this opportunity to progress equality, fairness and humanity.

The issues in the bill are covered by the criminal law and are therefore devolved. They are subjects that the Scottish Parliament can consider not only today but at any point in the future. However, this bill began its passage through Westminster in December 1998. It is still not on the statute book because of the attitude of the House of Lords in its death throes.

I ask members to allow the United Kingdom to take this significant and long-overdue step forward by paving the way for the swift progress of the bill through Westminster to deliver a fairer Scotland—not next year and not the year after, but now.

I move,

That the Parliament endorses the principles of equalising the age of consent for homosexual and heterosexual activity and creating a new criminal offence of breach of trust as set out in the Sexual Offences (Amendment) Bill considered by the UK Parliament in the 1998-99 parliamentary session and agrees that the UK Parliament should consider any Bill introduced in the same terms in the current session.

15:18

**Phil Gallie (South of Scotland) (Con):** First, I must thank you, Presiding Officer, for your assistance last night in putting together the terms of my amendment. Today's debate is not about homosexuality, heterosexuality, equalisation or anything else. That debate, as far as the Conservatives are concerned, has yet to come. When it does come, how Conservative members vote will be a matter of conscience for them, and individual views will be respected.

Over recent weeks, all our mailbags have been bulging with letters on homosexual matters. I refer to the debate induced by Wendy Alexander surrounding section 28—or section 2A in Scotland. To the Executive's credit, there has been consultation on that controversial issue. My hope is that the Executive will, to its further credit, take account of that consultation, which I confidently predict will show overwhelming support for the retention of section 2A.

The minister talks about the wonderful consultation that has taken place in Scotland on the bill. I say that the response of 20 organisations is hardly convincing, given the mailbags that every member in this chamber has almost certainly received on section 2A. I guarantee that the responses that every member has had from their constituents far outnumber the 20 organisations to which the minister refers. I hope that the Executive will show the courage of its convictions and demonstrate its underlying belief, emphasised time and again over recent years, that the voice of the people matters and that this Parliament is open in its deliberations, open to the views of the public and open in its aims—aims that have the widest possible public approval and that will serve the public well. If those are the aspirations that the Executive holds dear, it will have little difficulty accepting the amendment that is proposed by the Conservatives.

We Conservatives were reluctant supporters of the establishment of the Scottish Parliament. That said, there are none in this chamber today more committed to the success of this Parliament than the Conservatives. We are determined to play our part in bringing benefit to Scotland through the actions of this Parliament within the structure of the United Kingdom. We do not underestimate the magnitude of that task, particularly given the ineptness that is so frequently shown by the present Scottish Executive.

The motion is an example of that ineptness. Every one of the members of the Executive campaigned long and hard for this Parliament to be established. They fought and won the right for Scots to make decisions for themselves on a range of domestic issues that are fundamental to our daily lives. However, what are they prepared to do just seven or eight months after their goal has been achieved? They keel over and accept the demands of new Labour's Millbank control.

**Mr Andy Kerr (East Kilbride) (Lab):** Will the member give way?

**Karen Gillon (Clydesdale) (Lab):** Will the member give way?

**Phil Gallie:** I am spoilt for choice.

**Mr Kerr:** Does the member agree that we are in this situation because of the response of the

House of Lords, and that the only way in which to get this very positive piece of legislation through Parliament is to keep exactly the same wording in the bill? That will undermine those unrepresentative people, who are now disappearing very quickly over the hill.

**Phil Gallie:** No. The House of Lords was an accepted part of this country's constitutional arrangements and democratic make-up. That democratic make-up has changed and we have a new constitution. The Scottish Parliament is a reality and Scottish people should be consulted on these issues now that that is possible. Members of the Labour party seem to have retreated from their position on the Scottish Parliament and from their commitment to Scottish issues. That is nothing new for new Labour.

**Andrew Wilson (Central Scotland) (SNP):** In the two minutes that he has left, will Mr Gallie address the contents of the motion and answer this very simple question: is he or is he not in favour of the equalisation of the age of consent?

**The Presiding Officer:** You have three minutes, Mr Gallie.

**Phil Gallie:** My very next words were going to be on the contents of the motion. It would be my intention to oppose the reduction of the homosexual age of consent to 16, given the opportunity to debate it under devolved circumstances. However, my reasoning could be undermined by effective consultation. I would be prepared to listen and judge on the basis of what I heard. At this point, the public are not being given an opportunity to influence MSPs.

The national Government boasts that the bill will protect young people through the new offence of abuse of trust. Where a person over 18 is looking after a young person under that age and engages in sexual activity with them, he or she commits the new offence. What does the new offence consist of? The new offence covers any older person regularly involved in caring for, training, supervising or being in sole charge of a younger person while that younger person is in full-time education, detained under certain court orders or looked after by a local authority.

I suggest that that does not go far enough. What would happen, for example, in the traditional baby-sitting situation? The Minister for Health and Community Care may look askance, but people are often left in charge of 14 and 15-year-olds and younger children. How are they affected by the bill? That question must be addressed; I hope that we will have the opportunity to deal with it at a later date.

The bill provides for an order that may extend the positions of trust that are covered by the legislation. We are told that the Scottish

Parliament can determine such things later, but should not it be allowed to determine them now? Why does the bill not demand that 18 to 20-year-olds convicted of such offences be registered under the Sex Offenders Act 1997? There may be good reasons for that, but I would like ministers to explain them.

The Executive will give advice to organisations whose activities bring them within the scope of the bill. What costs will that incur? We have seen before the massive additional costs that legislation can create for such organisations.

Ministers should consider this matter again. We have a devolved Scottish Parliament. Ministers have the opportunity to consult the Scottish people. Many Conservative members would be prepared to listen to what the Scottish public say on this issue. Given that it was Labour and the Liberals who brought this Parliament into being, the fair and proper way in which to take this matter forward would be to bring it to the chamber for debate.

I move amendment S1M-430.1, to leave out from “endorses” to end and insert:

“considers that the principles of equalising the age of consent for homosexual and heterosexual activity and creating a new criminal offence of breach of trust as set out in the Sexual Offences (Amendment) Bill considered by the UK Parliament in the 1998-99 parliamentary session fall entirely within the remit of the Scottish Parliament and on that basis agrees that these matters be judged only after full consultation with the Scottish people.”

15:27

**Roseanna Cunningham (Perth) (SNP):** The absence of a Scottish National party amendment to the Executive motion can absolutely be taken as indicating the SNP’s total support for the Executive’s stance on this matter. *[Applause.]* However, as a matter of principle, the SNP does not want Westminster to continue to legislate in devolved areas, which unfortunately seems to be happening almost routinely, not just on this subject, but on others that concern us rather more.

The Immigration and Asylum Act 1999 was a case in point. Although the main subject matter is reserved, Westminster has proceeded to propose amendments to Scottish legislation even in devolved areas.

The SNP welcomes the comment in paragraph 6 of the Executive memorandum that accompanies the bill, which is worth restating. The memorandum says that

“it would remain open to the Scottish Parliament if it so wished to amend or repeal in the future any Scottish provisions enacted by the passage of the Bill.”

The Executive may find that that comment will come to be applied to any number of other bills

that Westminster pushes through despite the fact that they deal with devolved areas. We will argue that the same principle should apply to all such bills from Westminster.

Having said that, the SNP recognises that there is a distinct difficulty with the mechanics of getting this piece of legislation through Westminster and acknowledges the likely consequences if we dig our heels in here as we would be entitled to do if we so chose.

The history of the bill is reasonably clearly outlined in the memorandum. The bill was passed by the House of Commons last year then knocked back by the House of Lords. The Government plans to reintroduce the bill into the House of Commons again. If the House of Lords inflicts another defeat, the Government will invoke the Parliament Acts to ensure that the bill becomes law. In order to do that, the provisions of the bill cannot be changed. Deleting the references to Scotland would constitute change. Therefore, to stand on our dignity would delay the passage of the bill for the rest of the United Kingdom and—as there is no immediate opportunity to deal with the issue in this Parliament—for Scotland too.

I have had a number of conversations with relevant lobby groups in Scotland. Those conversations were characterised by good grace and humour—those asking the SNP for support well understood the sensitivities of the constitutional arguments and the difficulty that was posed for us. We had to reflect on the unequivocal policy position that the SNP adopted some 10 years ago and on the justified anxiety of the organisations arguing for change. For those reasons and for the sake of justice and equality, we will acquiesce in the Executive’s proposal today.

We are talking about justice and equality. The argument is straightforward, although it is made more complicated by the tortuous logic of the Conservatives, who choose to masquerade today behind a neo-nationalist façade. Unless they show signs of extending their newly found commitment to the powers of the Scottish Parliament, their stance will not fool the SNP. I only wonder whether we are going to be accused of entering into another unholy alliance—this time with the Executive.

I will not be drawn into a debate on section 28. It is months before the Parliament will debate that and the arguments are best left until then. We should be clear about what this bill does. It makes equal something that is currently unequal between male and female—the age of consent. It provides—again to establish equality—that an under-age person engaging in homosexual acts will not be guilty of a crime, albeit that the older person might be. That is the same as the situation

for heterosexual acts. I can see no good reason for maintaining the legal difference. The bill introduces a new offence to deal with abuse of trust for those between 16 and 18, a provision that will be widely welcomed.

I note that the bill is said to comply with the European convention on human rights. It is clearly arguable that the status quo is not compliant. The European Human Rights Commission has already condemned our current law.

There is plenty of opinion poll evidence that the majority of voters see this change as desirable. A year ago, Stonewall commissioned an opinion poll from the National Opinion Poll Research Group that established that 64 per cent of Scots thought that the age of consent should be equal for everyone. I should add that many thought that the common age should be 18 and not 16. It would have been interesting to hear members' contributions if the bill had centred around that proposal instead. I tried that argument out on a few folk and many of them had sympathy with the idea of raising the heterosexual age of consent instead of lowering the homosexual age of consent, although they all went on to say that that would be unenforceable. Unenforceability seems to me to be another reasonable argument in this debate and another reason why we should vote for equality.

In comparison with other countries, equalising the age of consent at 16 would put us into a fairly average position. It would still be stricter than the law in many countries, including Austria, France, Finland, Denmark, Italy, Spain and Sweden.

**Phil Gallie:** Is it not the case that, in Austria, the age of consent for homosexual activities is 18?

**Roseanna Cunningham:** No. There is a provision in Austria similar to the abuse of trust measure to which I hope we will agree today.

Another aspect of the argument that has always puzzled me is that the welfare of 16 and 17-year-old boys is a major concern for people who express nothing like the same concern for the welfare of girls of that age. That smacks of the most appalling double standards, particularly since all the statistics indicate that young girls are most at risk and that they are at risk from adult heterosexual males. Why should girls be less protected? To put it another way, why are boys to be treated as being in a more vulnerable position than girls of the same age?

Arguably, the present situation makes young gay men more vulnerable. For the reasons partially referred to by the minister, the bill will make it easier for young gay men to seek help. It will make it easier for them to go to the police and advice groups if they get into difficulty and it could make it considerably less likely that they will be

bullied—at present, bullies know that, if the individual complains, there is a danger that they, not the bully, will end up on the wrong side of the law. That traps young gay men into silence. That is not a reasonable situation for us to be putting some of our citizens in.

It is difficult to escape the conclusion that behind much of the opposition to the bill is an antipathy to homosexuality per se. There appears to be an attitude that—regardless of the merit of the proposal—whatever is proposed that would in any way reduce the inequality that goes hand in hand with homosexuality, and whatever is suggested that would increase society's tolerance of gay men, is to be countered at all costs. I think that that is wrong.

Many organisations recognise the need for the change that is proposed in the bill, including such radical organisations as the British Medical Association, the Royal College of Psychiatrists, the Family Planning Association, the British Youth Council, the National Association of Probation Officers, the Health Education Authority, Barnardo's, the Royal College of Nurses, the National Children's Bureau, the National Society for the Prevention of Cruelty to Children—I will not read out all the names.

**Mr Jim Wallace:** William Hague.

**Roseanna Cunningham:** Indeed, William Hague. That is hardly a roll-call of extremists bent on the destruction of civilisation. The list includes organisations that have to deal daily with the difficulties that gay teenagers face in our society. I suggest that their views are persuasive, no matter what the personal views of individuals might be. I urge members to ignore the nonsense that we have heard from the Conservatives today, to reject the Conservative amendment and to support the Executive motion whole-heartedly.

15:38

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** I welcome the fact that we are having this debate and I also welcome Roseanna Cunningham's contribution. It is to the credit of the SNP that it is trying to find ways of easing the passage of the legislation rather than trying to play politics with people's lives, as the Tories are doing once again.

It is important that we allow Westminster to deal with this legislation as it is the last piece of pre-devolution business at Westminster. It would have become law before now had it not been for the undemocratic, unelected and unaccountable House of Lords, which should not have gone against previously accepted parliamentary convention and blocked the legislation.

Phil Gallie talked about consultation and the democratic process. Perhaps, however, Phil has chosen to forget that, in 1994, when a free vote was taken in the House of Commons on equalising the age of consent, 75 per cent of Scotland's MPs agreed with the process of equalisation. In subsequent free votes in the House of Commons there were majorities of more than 200 in favour of equality.

The law should treat all people the same and a discriminatory age of consent is wrong. For evidence of that, we need look no further than a comment made by Save the Children, an organisation that does good work with young people:

"The discriminatory age of consent encourages intolerance and prejudice which can seriously affect the lives of young homosexual people. There is considerable evidence pointing to high levels of attempted suicide, family rejection, bullying and intimidation of this group of young people."

Many members may have read a briefing that was sent round by the Stonewall group. It contains a quote from a young gay man that reads:

"During this time, I was raped by a man. But because I was under the age of sixteen, I thought that if I told anyone about it, I would be arrested and put in prison. And so I did nothing".

How many young men have been in that position?  
How many did nothing?

Keeping the age of consent for gay men at 18 will not stop young gay men having sex—it will put them at risk when they do. It will stop them seeking the advice that the young man I mentioned and many others such as him need.

Keeping the age of consent at 18 will encourage young people to lie to their families and to their friends. It will make them unable to talk about their sexuality and the difficult decisions that they must make in their lives. It will label gay young men as being less acceptable than other young men in society.

I want to say a brief word about the provision of additional protection for young people who are particularly vulnerable—those aged 16 to 18 who live in, or are subject to, situations in which people in positions of trust look after or work with them. Phil Gallie mentioned the costs implicit in introducing the legislation. I worked for many years with young people who have been in situations in which their trust has been abused and a price cannot be put on the damage that abuse by people in professional positions causes to young lives.

**Phil Gallie** *rose*—

**Cathy Jamieson:** I want to finish this point because it is important.

I have worked with young people who have suffered abuse at the hands of teachers, social workers, foster carers and pillars of the community, including churchmen and people from the medical profession. It is simply not good enough to say that we will not offer those young people additional support and protection. The proposed legislation will do that.

**Phil Gallie:** I thank Cathy for letting me intervene.

I am complaining about the amount that the proposed legislation will cost youth organisations in particular—I am not complaining about the Sexual Offenders Act 1997. I acknowledge that the cost of that act is the fault of new Labour in government at Westminster. In terms of cost, what effect will the proposed legislation have on youth organisations?

**Cathy Jamieson:** I take Phil's point. As members will know, that point has been raised in other debates in relation to police checks on organisations and so on. The issue we are debating is entirely different. This is about legislation that would make it an offence for those who are responsible for young people to engage in sexual activities or relationships with those young people. That is an entirely different matter from the one that Phil Gallie raised.

There are young people of 16 in residential care who are being looked after by a local authority. We must send a clear message that it is not acceptable for those who work with them to take advantage of their vulnerability and engage in sexual relationships with them. That is what the bill proposes and that is what I want to happen.

Phil Gallie might have talked about consultation as well as he did on other subjects. I remember the consultation between Westminster and children's and young people's organisations because I was involved in assisting young people in putting forward their views at that time. Those young people were very much in favour of the bill; they wanted to see this legislation happening.

I will finish with a couple of points about what I consider to be the real agenda. In some ways, I wish that some people would be more honest about their agenda.

Many of the constituents who have written to me are concerned about section 28. I have taken the time to give the correct information, as I see it, about what the Executive is taking forward. I say to Phil Gallie and to other members that I have had as many letters about the cost of bus services from Muirkirk and Mauchline to Ayr as I have had about section 28. I respectfully suggest that we do not get caught up in further disinforming people. We should listen to the points of view of those who are raising genuine matters of conscience, but I



believe that the Tory motion is not based on genuine concern—their real agenda is different and they should be honest enough to put their agenda forward and to debate it.

I support the Executive motion and urge members of all parties to support it. When the time comes for a free vote on section 28, let us do that in an informed, up-front and honest way, rather than on the basis of prejudice and intolerance.

**The Deputy Presiding Officer (Mr George Reid):** The chamber has 45 minutes for general debate. Ten members have asked to speak, so members should keep their speeches to a maximum of four minutes. Eyes on the clock.

15:45

**Nora Radcliffe (Gordon) (LD):** I will reiterate a lot of what has been said already, but it bears repeating.

The law should treat all people in the same way. Current law criminalises a 16 or 17-year-old homosexual for doing the same as his heterosexual friends do legally at 16. If young people are mature enough at 16 to marry, they are mature enough to have come to considered conclusions about their sexual orientation, or to have decided to explore their sexual orientation.

Setting the age of consent for homosexuals at 18 does not stop young men from having sex; all it does is put them at risk when they do. Criminalising young people makes it infinitely more difficult for them to seek help from the police in situations where it is appropriate, for example after an assault or a break-in. Setting different ages of consent says not only that people are different—which they are—but that that difference is wrong or to be deprecated. That does not do a lot for anyone's self-esteem, and it encourages others to treat them with less respect at best, or as targets and victims at worst. That is not acceptable in a society that preaches equality for all.

The age of consent should be equalised. That accepted, it will be most easily achieved by adding the endorsement of the Scottish Parliament to the large majority for this measure in the House of Commons—on a free vote—when the Sexual Offences (Amendment) Bill was debated last year, and by the Scottish Parliament consenting to allow the Westminster Government to proceed with the bill, including the provisions of the bill that apply to Scotland. As has been said, that is the quickest way forward for technical reasons, should it be necessary to invoke the Parliament Acts.

Finally, the new offence of abuse of position of trust, which extends protection to young people, is to be welcomed, although it is to be hoped that it will not be needed.

15:47

**Johann Lamont (Glasgow Pollok) (Lab):** I will talk specifically to the provision on the abuse of trust, but I would like to make a point about the language in which the bill is written: it refers throughout to "he". In relation to this bill in particular, that language may be confusing. I say that as someone who is on record as saying that I regard domestic abuse as an issue that has a specific gender perspective. However, we should be moving on in our new century from the generic "he" covering men and women. It is obvious that if we referred to MSPs as "he", we would be talking about only 63 per cent of members—a welcome development. I hope that in the interests of equality and clarity that comment will be taken on board in relation to all bills.

There is a growing understanding and acceptance that, sadly, abuse happens to our young people, and we need to take all possible steps to prevent it. But that consensus did not always exist. Often in the past, those who sought to expose what was happening to too many of our young people were characterised as loony feminists or man-haters, but as in many areas in which women's organisations have led, society has followed. Much of the work done to shift public consciousness in this area has been done by women's groups, but, more important and more powerfully, by the testimony of the survivors themselves.

In a previous existence, as a schoolteacher, I worked with vulnerable young people, and now, as a mother, I am hugely aware of the immensity of the power that a child's trust gives one, and the pain and damage that is done when that trust is broken. I can assure members and anyone else who listens to this debate that I would do nothing in this vote, or in a future vote on section 28, to make the young people I work with, or my own children, more vulnerable.

We should be aware that, often, young people who have to deal with inappropriate treatment by adults in authority over them are characterised as difficult, as having mental health problems and as being unmanageable, when their response is entirely logical. It is good to know at least that our justice system, through the children's panel system, recognises that sometimes our young people are made scapegoats, and that we have to look at the whole young person.

We have to recognise the problems that information on the abuse of trust can create within the care system. Not only can it impact on those who are genuinely working in the best interests of young people, it can create a reluctance to bring a young person into the care system for fear of what may happen to them, even if, in an ideal world, that might be the most appropriate decision.

It is a huge cost to the individual, and to us all, if a young person who is already vulnerable and whose only experience of adults has been one of maltreatment, arrives somewhere safe, only to find that they are offered support by someone who will treat them equally badly. In some circumstances, they may not even be aware that the treatment that they are experiencing is wrong and that society disapproves of it. It is essential to support those who seek to work with young people and who wish to empower them. We have to put young people at the heart of our policy.

We must recognise that our condemnation of those who breach trust is absolute, regardless of the age, gender, class, occupation or sexual orientation of the abuser. Whatever differences the abusers represent, what they have in common is that they are choosing to exercise their power—the power that society has vested in them—over vulnerable young people. They do it because they can. There is no hierarchy of disapproval in relation to the abuse that our young people experience. Our girls are as vulnerable as our boys; indeed, given the sexist comments that are the normal experience of many of our young people, they are often more vulnerable.

We have to give our young people the power to be strong and to be safe. We have to teach them to speak up and, ultimately, we have to seek to ensure that those in power learn to listen.

15:52

**Michael Russell (South of Scotland) (SNP):** I strongly support what Roseanna Cunningham has said. The Scottish National party is pleased to support this motion. We have our concerns about Westminster legislation, but there is no doubt that not only is this the only way to take this item forward, it is the right way.

I start with a comment or two about Mr Gallie's amendment. I was struck by the words of Norman Shanks, who spoke earlier. He quoted a poem by Ben Okri, which said that new worlds await to be discovered by free minds and that we should begin here. The poem went on to say that we should

“consign prejudices to the past”.

A genuine belief in the Scottish Parliament and in Scottish democracy should make certain that we discover new worlds.

Two elements of Mr Gallie's amendment are worthy of great criticism. First, it cloaks, in a pretend belief in Scottish democracy, what is essentially a prejudice of the past. I would admire Mr Gallie, and those who support him, more if he were able to admit to that prejudice and to debate it openly.

Secondly, given the opposition to the Scottish Parliament and Scottish democracy that came from Mr Gallie and his colleagues over many years, suddenly to discover the virtues of consultation has eerie echoes of Margaret Thatcher's promise, in 1979, that people should reject constitutional change because something better was coming along. For the Scottish Tory party, which gave us the poll tax, without consultation, there should be a period of silence and reflection, and not such a hypocritical amendment.

Equality is indivisible. It is impossible to believe in a socially just and progressive society without believing that it should apply across the board. It is not possible to say that discrimination on the grounds of religion or gender is wrong, but that we should discriminate on the ground of sexual orientation. That position cannot be held with honesty or integrity. I hope that members will reflect upon that in the weeks and months to come.

Many people in this chamber believe, as I do, in building a new Scotland and that that Scotland has to be based on equality and fairness. The SNP believes in a bill of rights and a written constitution that guarantees those things for the people of this country. However, it is impossible to approach that from a pick-and-mix perspective. We cannot say that we should discriminate in one way but not in another. We have to be absolutely, totally and rigorously fair to all people in our society.

I believe that the right way forward is a written constitution and bill of rights. However, until we have that, we must take a bit-by-bit approach: today it is the age of consent; in some months' time the prevention of discrimination against homosexuals will be written into legislation. Let us remember that we cannot favour one group over another, or pretend that we are in favour of equality while clinging on to the prejudices of the past.

Presiding Officer, you will know of Pastor Niemöller and his famous words in the *American Congressional Record*. It is worth quoting them:

“When Hitler attacked the Jews I was not a Jew, therefore, I was not concerned. And when Hitler attacked the Catholics, I was not a Catholic, and therefore, I was not concerned. And when Hitler attacked the unions and the industrialists, I was not a member of the unions and I was not concerned. Then Hitler attacked me and the Protestant church—and there was nobody left to be concerned.”

We cannot have a society in which we decide that one group is acceptable and another is not. We must not leave discrimination on the statute book or ignore the progress on human rights that has been made elsewhere and the demands that that places upon us. I urge members to support the motion. Unusually, I urge members to support

a Westminster route to justice.

15:56

**Scott Barrie (Dunfermline West) (Lab):** I am glad to be speaking in support of the motion moved by the Minister for Justice and the comments made by the SNP's spokesperson on justice and its business manager.

Roseanna Cunningham said that today's debate is about justice and equality. That is correct. Phil Gallie said that he did not intend to have a debate about homosexuality today. That was both a good and a bad thing. It was good because it meant that we did not have to hear the vitriol and homophobic remarks that were made when such legislation was discussed at Westminster—particularly the comments made by many Tory peers in the House of Lords. However, it was perhaps bad because it seems that the main reason for Phil Gallie's amendment is that he would rather discuss that subject than the fact that this is unfinished business from Westminster.

In his opening comments, the Minister for Justice made a good case as to why we should discuss this subject in Scotland, but should return the matter to Westminster for legislation. The SNP should be congratulated on the way in which it has approached that; in the past, it has not been its stated policy to agree with that approach. This is business that is unfinished in Westminster and it would have been completed by the time we took our seats in this Parliament if it had not been for the activities in the House of Lords.

We have heard that the proposed bill would contain three main parts. One part would equalise the age of consent in homosexual relationships with that of heterosexual relationships. It would decriminalise those who currently find themselves to be criminals. As Johann Lamont clearly indicated, it would also introduce the idea of a breach of trust. Phil Gallie asked why that was not being extended to other categories, such as babysitting. I assume that he meant that the person being looked after would be under 16 years old, in which case a sexual relationship would be a criminal offence, as it is at the moment. That would have little to do with the fact that the person who was babysitting was in a position of trust. That is an example of some of the confusing argument that was put forward by Phil Gallie and of the misinformation that has surrounded the debate of the past few weeks on section 2A.

Some people have the idea that paedophilia is somehow linked to homosexuality. There is absolutely no evidence for that. People who have dealt with paedophiles—as I have had to do previously, in my professional life—know that there is a great deal of evidence that it is the

almost asexual and genderless nature of many very young children that attracts certain people towards them, not whether the child happens to be male or female. Similarly, there is often a feeling that male adolescents are somehow at risk from predatory gay male figures. Again, from my experience of investigating many child abuse cases over the years, it would appear that female children and adolescents are at greater risk from heterosexual men than younger male adolescents are at risk of being preyed on by gay men.

So much myth and presupposition surrounds such issues that it sometimes proves difficult to have a rational debate. The Executive should be congratulated today on the steps that it is taking. To do other than we are being asked to do today would mean that legislation would have to start over again on the statute book in England and Wales, and who knows what even the reformed House of Lords might try to do to the legislation. We are halfway through the legislative process. Let us complete it and support the Executive today.

16:01

**John Young (West of Scotland) (Con):** Mike Russell mentioned the Tory party. I have always been a devolutionist, right back to the days of Sir Alec Douglas-Home; I remain one to this day. I was a devolutionist throughout the time of Margaret Thatcher and nobody booted me out, expelled or deselected me at any stage, so democracy exists in the Conservative party, despite what Mike might think.

I take the same stance, largely, as Phil Gallie on the subject under debate today. Phil's amendment contains one crucial phrase:

"that these matters be judged only after full consultation with the Scottish people."

Are we expected slavishly to follow everything that Westminster does? I am surprised that people of Mike Russell and Roseanna Cunningham's stance do not stand up and say, "We should go our own way, whatever way we think is right." Instead, Labour is following Labour south of the border and the SNP is falling into turn.

The motion mentions the fact that the age of consent would apply to homosexual and heterosexual activity. In many ways, instead of looking to the future, we are going back to the past. In this very city, three to four centuries ago, girls of 13, 14 and 15 were being entered into marriage. Sexual activity certainly spanned into age groups that would not normally be acceptable in most of the western world today. Society and population requirements were very different at that time. People died at an early age, usually before they reached 40.

One of our major problems in society is the number of teenage pregnancies in which mothers have not reached the age of 18 and fathers have run away faster than any Olympic sprinter.

Labour's first attempt to change the law on the age of consent was during the passage of the Crime and Disorder Bill in 1997-98, which involved, sometimes, the murky hand of that non-elected body the European Human Rights Commission.

Jim Wallace accepts that homosexuality is a very sensitive issue, then commends pushing forward the Sexual Offences (Amendment) Bill. He also spoke about equality—a praiseworthy desire—but, sadly, inequality has always existed and probably always will. That is not to say that we should not try to do something about it. I just wonder whether Jim Wallace is advocating sexual licence. He said that he is not—that is fine—but why does a true democrat such as him not go to the people? Do the people of Orkney and Shetland agree with what he is doing?

I have no quarrel with people's sexual preferences, provided that they do not involve children or animals, but to a certain extent I quarrel with those people who try to publicise and promote sexual preferences of any kind. Sex is a very emotive subject; I did not expect to be debating it in the first few months of the Scottish Parliament. In my 35 years in Glasgow City Council, we debated publicly a sexual matter, section 28, only once. I will return to section 28 in a moment.

Jim Wallace mentioned some form of consultation in 1998, to which 20 organisations responded. Were public adverts taken out? Were the people consulted? During the recent election, I read the election address of my Liberal opponent, Anna McCurley, who underwent the swiftest conversion since Paul on the road to Damascus. I saw nothing about the age of consent in that manifesto.

Jim Wallace also spoke about Westminster and anomalies that might arise south of the border. Surely the fox hunting motion would also create an anomaly if fox hunting becomes illegal in Scotland—which I support—yet remains legal in England. If one equates Labour to an occupation force, Jim Wallace must feel that he is being used—a bit like Marshal Pétain—to present, in a persuasive manner, a case that the majority of the people do not accept. Phil Gallie mentioned the mailbags he had received on section 28. The only other subject on which I have received an equivalent volume of mail is fox hunting.

I warn the Liberal and Labour parties and the SNP that they will not help their cause in the Ayr by-election by promoting legislation that was not

advertised during their election campaigns.

Cathy Jamieson mentioned that a number of MPs support repeal. I recall that Labour did not allow a free or conscience vote when Glasgow City Council discussed section 2A. Four of the Labour councillors were of the Muslim faith and it was obvious that they did not want to repeal section 2A. Three of them left the chamber before the vote, and one, Bashir Maan, voted to retain section 2A.

There are 56 Labour MSPs, 35 SNP MSPs and 17 Liberal MSPs. I do not believe that all those 108 MSPs are happy and unanimous. The party whip is indeed a powerful weapon.

If there were a boycott of Stagecoach, as some groups want, jobs would be lost. We should ask the people what they want. If this is a democratic forum, we should postpone taking a decision for four weeks and invite the great Scottish public to give its views.

Will this motion give the protection that we are told it will? Should we pursue a more effective route?

16:06

**Kate MacLean (Dundee West) (Lab):** I welcome the minister's motion to agree that the UK Parliament should consider the Sexual Offences (Amendment) Bill. It is highly unlikely that I would support this course in any other circumstances, but if the Scottish provisions are removed from the bill, the House of Lords can once again delay these important reforms.

The Conservative amendment is bizarre. It is unusual and uncomfortable to hear Phil Gallie championing the cause of devolution. If he were so much in favour of devolution, he would want to stay in this Parliament rather than go to Westminster. He said that the debate is not about homosexuality, but then he and John Young talked about section 2A, which this debate is not about. As Cathy Jamieson said, it would be refreshing to hear some honesty from the Conservatives and others who have chosen to become involved in this debate.

In the House of Lords, the argument for rejecting the bill was that not enough consideration was given to the protection of young people from abuse of a position of trust. In spite of inclusion of a new offence of abuse of a position of trust, the Lords again overturned the bill. That demonstrates the agenda behind the delaying tactics. The real problem people have with this issue—it has been guilelessly given way—is to do with sex rather than the abuse of trust or paedophiles. Some Conservatives, and others, feel that the sexual activities of homosexuals are unnatural. If people

think that they can pick and choose what activities are natural or unnatural, that is up to them, but they should be honest enough to say so.

Today, the Conservatives are similarly indulging in delaying tactics, as they are saying that they do not want the UK Parliament to discuss this matter. They want to delay the repeal of this discrimination. As Nora Radcliffe said, why should a 16 or 17-year-old gay or bisexual man be criminalised for doing exactly the same things—consensual sexual activities—his heterosexual friends do?

A whole section of our community is discriminated against solely because of its sexual orientation. People can always provide justification for their prejudices, but to accuse gay or bisexual men of being perverted, as has been done many times in the past few weeks, or of being more likely to abuse children—another common myth—is not logical or based on evidence. As Scott Barrie said, evidence to the contrary is available from any social work department.

I welcome the opportunity to ensure that this discrimination is ended as soon as possible. I look forward to this Parliament winning the argument, repealing section 2A, and ensuring that every piece of legislation that goes through is scrutinised to eradicate prejudice against gay, lesbian, bisexual and transgender people.

We say that we are committed to equality in Scotland. If we want our children to grow up understanding, respecting and celebrating the diversity of the country in which they will live, we must create a society that allows them to do so. By agreeing the Executive's motion today, we will contribute considerably to that process.

16:10

**Fiona McLeod (West of Scotland) (SNP):** This debate is about rights and young people. The equalisation of the age of consent is an essential right for young men in a civilised society, and I am sure all members of the Scottish Parliament want to believe that we live in a civilised society.

Equalisation of the age of consent is long-held SNP policy. It is, perhaps, worth revisiting some of the reasons why it is required. The debate is about discrimination, or doing away with discrimination—young men are being discriminated against and their rights under various United Nations conventions are being denied. They are also being discriminated against in a practical way, as they cannot access the advice, support and services that would enable them to live their lives safely and healthily. I am sure that members want them to live safe and healthy lives.

Discrimination leads to many other problems for

these young men, such as bullying, which has already been mentioned. However, bullying is also a problem for society and we must be positive about doing away with it. There must be no excuses for bullying, and there must be no excuses for bullies to hide behind.

We have heard from a number of members that discrimination leads to mental health problems. It is beyond a joke that 16 and 17-year-old boys, on the threshold of adulthood, have to deal with the problems of discrimination, on top of which they have to deal with mental health problems. My colleague, Kenneth Gibson, called for research into the high levels of suicide among young men in Scotland. I would like to include in that research an analysis of the impact of young men's sexuality on their mental health.

In last year's youth manifesto, the SNP called for all young people to be able to lead their lives free from discrimination on any grounds. We must, by pursuing the bill, remove the negative discrimination of unequal ages of consent. I echo Kate MacLean's concluding comments. We must act positively and ensure that the bill becomes part of equality—and sexuality—legislation. I support the Executive's motion.

16:13

**Karen Gillon (Clydesdale) (Lab):** It is with considerable regret that I speak in this debate—it is a sad reflection on our society that such inequality still exists. My regret is all the greater because we are discussing this matter only because the unelected House of Lords thwarted the democratic will of the House of Commons, on a free vote.

Is it not ironic that the Tories in this chamber are trying to delay once again the process of equality, this time under the guise of consultation? As Mike Russell said, they were famous for that when they were in power, Phil. Better still, they are also using the guise of devolution. I am glad that they have seen the light—long may it continue. Call me cynical, but perhaps the truth lies in the substance of the bill and in the fact that the Tories do not agree with what Westminster is doing.

If members agree the motion, the Parliament is saying that it accepts the content of the Westminster bill and that it believes all young people—in Scotland and, indeed, in the United Kingdom—deserve equal protection and equal treatment. We know that, in turn, the bill will be passed by Westminster, as the Government will invoke the Parliament Acts. I believe that the majority of people in this country support the principle of equal treatment.

I greatly welcome the introduction of a new offence of abuse of trust. It will apply equally to

men and women. My colleague Johann Lamont has dealt with it in some detail. The bill would protect vulnerable young people from predatory older men and women who seek to abuse the trust that has been granted to them. It is absolutely right that that should apply without regard to sexual orientation. Abuse of trust in whatever relationship is not specific to any sexual orientation; it is about abuse of power by people who try to manipulate those over whom they have a power relationship. This Parliament can have no truck with that.

I want to deal briefly with the equalisation of the age of consent. The debate on the bill at Westminster was heated. Phil Gallie and I remember it well—I was working for a member of that Parliament at the time. I saw the contents of the postbags and heard the debate. It became focused on predictions of young people, particularly young men, being manipulated, and on other terrible consequences of equality.

I believe that the truth is that if we leave the age of consent as it is, we are making criminals of young men. By doing that, we are leaving the way open for young gay men to be exploited and to be left vulnerable. We are denying them the opportunity of seeking advice and discussing their feelings and how they think they are. They know that doing that now means admitting that they are breaking the law. In such circumstances, it is us who are leaving the potential for young people to be manipulated. By giving young people the opportunity to make an informed choice, we are giving them a route away from manipulation; leaving the law as it now stands will help no one.

Young people throughout Scotland will be watching this debate. They will be watching this new Parliament and how we discuss the issues that affect them. Many people we know and represent—and many MSPs—may have some difficulty with describing homosexuality as a mainstream lifestyle, or as normal sexual practice. I have my own faith; many other members have theirs. My faith taught me tolerance, love and understanding. As politicians, we have an obligation to the people we represent to make this a tolerant, understanding, loving country, irrespective of whether we accept the lifestyles people adopt. That is why this Parliament should pass the motion, reject the amendment and send a clear message to the people of Scotland.

16:18

**Andrew Wilson (Central Scotland) (SNP):** It is a privilege for me to welcome all three aspects of the bill, if not the details of its source. I am pleased to say that its proposals have been SNP policy for more than a decade—certainly as long as I have been a member of the SNP. I hope that that is welcomed around the chamber.

The debate has, in west of Scotland parlance, seemed all to the one side like Gourrock; the quality and the consistency of argument have been on the SNP side. Some of the arguments that we have heard from the Conservatives have bordered on the bizarre, if you will forgive that description, Presiding Officer.

The biscuit was taken by Phil Gallie's claim that there could be a breach of trust with babysitters. How many people do members know who require babysitters for 16-year-olds? People at that age are old enough to get married or work. Perhaps we are still being babysat in the Gallie household. What does Phil say when he is at work—"I have to rush home for half five because the babysitter is due in"? That is a nonsense argument, but it has characterised the arguments we have heard from the Conservatives.

The real argument—the source of the intention behind this debate—is whether we agree with the principle in the motion: that the legal age of consent should be equalised. As Roseanna Cunningham rightly pointed out, we can argue about the age level if we wish—I feel that it should be 16, which I think is the age of maturity that this society has found—but we cannot argue about the inequality.

As Michael Matheson said in a debate last year, the words justice and equality are emblazoned on the very mace that confers legislative powers on this Parliament. Those principles should inform everything we do as a legislature.

I have heard no consistent arguments in favour of inequality in the age of consent. The burden of proof in this debate lies with the opponents of equality and justice, because the discrimination implied in the unequal ages of consent is unacceptable. Without equality, one section of society is left open to being criminalised for a victimless crime.

As Roseanna Cunningham has said—Jim Wallace agreed—the current legislation is contrary to the European convention on human rights. We are entirely out of step not just with the rest of Europe, but with the aspirations of any modern country going into the 21<sup>st</sup> century. In Scotland, we should be seeking to be the most equal, the fairest and the most civil society in Europe. That is an aim we have aspired to achieve by our efforts to have greater representation by women in this chamber.

I should tell the Conservatives that, on the continent, the age of consent has been equalised in Albania, Andorra, Turkey, Russia, Spain, Iceland, Ireland, Italy and Malta. Although many of those countries are not known for their adherence to principles of equality, they agree that equality is the modern position on this issue. It is absurd to

go against not just the European mainstream, but the normal position for a normal country entering a new century.

This will be the first—and last—time I will argue that even the institution of Westminster has already voted democratically for this measure. Relying on the unelected House of Lords to delay a measure, then trying to delay it even more and, by doing so, copping out on the real debate, is an old-fashioned Conservative tactic. We were about seven minutes and thirty seconds into Mr Gallie's opening speech before he admitted his position, which is that he is opposed to equality and justice in this matter. That is entirely unacceptable.

What can anyone fear in the bill's three aspects? Non-consensual sexual relationships and breaches of trust in sexual relationships are still crimes; it will not be a crime for 16-year-old adults to have sexual relationships if there is absolute consent.

**Phil Gallie:** Andrew Wilson has condemned the House of Lords to an extent. Did not the House of Lords introduce the clause that has brought about what is referred to as the abuse of trust clause?

**Andrew Wilson:** Although the House of Lords introduced an improvement to the bill, it is unacceptable for it to knock back the bill itself. That has led to the invocation of the Parliament Acts, which is why we are currently debating this issue.

No case against this motion has been presented. Whether the age of consent should be 16 is a difficult issue, as many folk have already said. There will always be some people who are mature at 16 and others who are not. I have 30-year-old friends I would not trust in the kitchen, let alone in a mature and loving relationship. That does not mean, however, that we cannot have a uniform age of adulthood, which we have selected to be 16. For some time, people in Scotland have been able to marry at 16, which is as it should be.

We should take this chance to give the Scottish Parliament a reputation for equality and justice, which would go well beyond the confines of the chamber and the people who are watching us today. We have a big opportunity to stake out a consensus position that is agreed by all parties—I note that the Conservative leader in London agrees with our position.

As Mike Russell said, Scotland should ideally have a written bill of rights and a constitution to enshrine this position more substantially. However, as with the principle of devolution, something is better than nothing and we are moving in the right direction. This is our big chance to put a mark on this issue.

16:24

**Dr Elaine Murray (Dumfries) (Lab):** Like Karen Gillon, I am contributing to this debate with some regret. From what we read in the papers, Scotland appears to be in the grip of some homophobic frenzy that is not mirrored south of the border. If that is true, it is much to Scotland's discredit, because it makes considered debate very difficult.

The bill was debated and supported by Scottish MPs when they had legislative power over this area. It was overwhelmingly supported in the Commons and would have been law by 1 July had it not been for the Conservatives in the House of Lords blocking the will of elected MPs.

Today's Tory amendment is yet another attempt to block legislation taking effect in Scotland. If successful, the Tories would block the protection that would be afforded to young people by the new offence of abuse of trust by adults in positions of responsibility.

I speak as a parent of three children. I have two children who are approaching adolescence. Like most parents, I want young people to be protected by law from the unwanted attentions of adults who may have a particular relationship with them by virtue of their job or some other role. We all know that young people can become dependent on—or, indeed, develop a crush on—adults who work with them.

Any of us who has been involved in education will be familiar with the syndrome of students having crushes on teachers. Young people deserve to be protected from any adult who tries to take advantage of that relationship. I do not care about the gender or the sexual orientation of that adult: male or female, straight or gay, adults should not abuse their relationships with the young people they work with, especially their relationships with vulnerable young people.

I would be as angry about an older woman's attentions towards my young son as I would about an older man trying to interfere with him; I would be equally angry about an older man trying to become involved in a sexual relationship with my daughter as I would if he tried to approach my son. I do not think that gender or sexual orientation is important in such matters—abuse is abuse, and abuse of trust remains abuse of trust.

I urge the chamber to allow the bill to apply in Scotland. In future, we can of course amend or repeal it in the light of experience. For example, if we find that the abuse of trust provisions do not do exactly what we want them to do, we can amend them. We have competence in that area and we should exercise it if necessary. Meanwhile, I urge members to support the motion.

16:27

**Euan Robson (Roxburgh and Berwickshire) (LD):** On behalf of the Liberal Democrats, I accept that—in this exceptional instance—it is appropriate for the bill to proceed on a UK-wide basis. There are good reasons to believe that that would be the quickest route to enactment of the bill. As we have already heard, if the Lords obstruct once more, the Parliament Acts can and should be employed. There was overwhelming support for the bill in the House of Commons; it is therefore appropriate that the Parliament Acts should come into play.

It is imperative that we proceed quickly. In the case of Euan Sutherland, the European Court of Human Rights found that there had been a violation of article 8 of the European convention on human rights, on privacy, and of article 14, on discrimination. Furthermore, a parallel case—that of Chris Morris—has been suspended pending the possible passage of the bill. A second stay in the proceedings before the court has been agreed until 31 July 2000. There is clearly a need to take early action—and the best route for that is through Westminster.

It is right that this Parliament expresses its support for the bill. Our group will therefore vote for the Executive's motion, as it contains clear endorsements of the principles of the bill. It is right to equalise the age of consent at 16.

I do not want to go over the points that many members have eloquently expressed—except to add two points. Much has been said in support of the bill. However, this morning, the Justice and Home Affairs Committee started stage 2 consideration of the Adults with Incapacity (Scotland) Bill which, at stage 1, Parliament agreed to in principle. The definition of adult in that bill is 16 or over.

I am grateful to the Scottish Parliament information centre and the Defence Analytical Services Agency for providing information about military casualties due to hostile action. Since 1 March 1979, 134 people under the age of 21 have been killed in military service. Of those, three service personnel under the age of 18 were killed during the Falklands war and one was killed during the Gulf war. Society can ask for and receive the ultimate sacrifice from people under the age of 18, but it excludes them, in a separate context, from a particular lifestyle. That is an anomaly that must be addressed.

The two further provisions in the bill attract our support because they are measures to protect people under the age of consent. The new offence of breach of trust is particularly welcome. It is worth recording the penalties for breach of trust to demonstrate how serious an offence it will be. A person found guilty of the offence of breach of

trust at a sheriff court sitting summarily in Scotland will be liable to a maximum penalty of six months' imprisonment and/or the statutory maximum fine, which is currently £5,000.

On conviction in a sheriff court sitting with a jury, or in the High Court in Scotland, the maximum penalty will be five years' imprisonment, an unlimited fine, or both. Unless they are under the age of 20, a person convicted of such an offence would also be subject to the notification requirements under the Sex Offenders Act 1997. That demonstrates that the new offence of breach of trust would be treated seriously. Its enactment will be welcome.

I reiterate the Liberal Democrats' support for the Executive's motion.

16:31

**Mrs Lyndsay McIntosh (Central Scotland) (Con):** I have a feeling of impending doom about this speech, Presiding Officer. Nevertheless, I thank you for the opportunity to contribute to the debate.

We should not even be considering the bill. How on earth are we to persuade the electorate of Scotland of our ability and authority to legislate effectively on their behalf if we pass legislation that can be subject to amendment or abolition in another place? There could be no clearer example of such legislation than the bill that we are considering now.

If we approve the motion today, Mr Dewar's Westminster colleagues will be in a position to reintroduce the bill that was rejected by the House of Lords before the Scottish Parliament was established. Like it or lump it, it was the House of Lords that protected this Parliament from Westminster. If only it could have done the same for itself.

It may pain some members, but the Lords were more in touch with people's thoughts on this issue than perhaps we anticipated. That is why they introduced the offence of breach of trust—the idea that everyone in this chamber has already supported. The Lords' actions improved the bill.

The bill must be reintroduced in its original format, which includes Scotland. Thanks to Mr Blair's in-built majority, anything this Parliament decides will be superseded. The phrase "parish council" comes to mind—and where is Roseanna Cunningham's dignity in that regard?

The people of Scotland are clearly sceptical about whether our services provide value for money. Let us not add to their list of gripes by passing bills such as this. We have to accept that this issue is before us today and we must make the best job of it for the sake of the people of



Scotland. However, I consider it to be ill-advised and poorly framed.

I for one would have been more sympathetic to such legislation had it been—wait for it—more radical in its approach to the problems being faced by modern Scottish society. I would have advocated, as Roseanna anticipated, equalisation being set at the age of 18 to coincide with the introduction of a compulsory identity card scheme. Only then could a publican selling a pint of beer, a shopkeeper selling a packet of cigarettes or a doctor prescribing contraception be totally confident of the authenticity of the photographic identification being produced.

I know that increasing the age of consent would cause many people who already participate in certain acts to be deemed beyond the letter of the law. I recognise that the effect of my proposal would be that extra resources would be required to bolster education and counselling services in support of those engaged in such activities, particularly under-age sex.

Smoking is no less of a problem and more must be done in any case to connect with our young people in educating them about its inherent dangers. As a smoker—I know that there are secret smokers in the chamber—I am doing my best to discourage the next generation from taking up that habit.

This bill is bad. In any case, it will not remain ours for very long, should we approve it today. Scotland was given a new Parliament to deal with its in-house matters at a local level. This bill clearly demonstrates that that is not the case, and the people of Scotland may not forgive us easily if we approve it. Presiding Officer, I support the reservations expressed earlier in the debate by my colleague and ask that you give serious consideration without delay to the effect that passing this bill will have on the relevance of the Parliament.

16:35

**Michael Matheson (Central Scotland) (SNP):** Many members have welcomed the opportunity to have this debate on the Sexual Offences (Amendment) Bill. However, given the comments that have been made by the Conservatives, it appears that on the issue of sexuality they remain somewhere in the ice age.

The bill tries to balance the need for equal treatment and the need for equal protection for all young people, which is endorsed by many well-respected children's organisations, to which several members have already alluded.

In his opening remarks—underlining the fact that the bill is about dealing with the reality of modern

society—Jim Wallace mentioned that many young people are involved in some kind of sexual relationship at the age of 16. It is the role of any responsible society to act on that and to ensure that its values and laws reflect it. We must end the criminalisation of young people and, in particular, young men because they are 16 and choose to enter into a homosexual relationship.

Unfortunately, the bill could have been further advanced, if not enacted, had it not been for that last bastion of democracy, the House of Lords. In my view—I mean no disrespect to Lord James Douglas-Hamilton—the House of Lords served as probably the most expensive form of day care for the elderly for some time.

**Mr Jim Wallace:** Here comes Lord Steel. [*Laughter.*]

**Michael Matheson:** As he takes the chair, my microphone is switched off.

If anything shows the need to abolish the House of Lords, it is the fact that it delayed such an important bill.

Mr Gallie and Lyndsay McIntosh pointed out that the House of Lords first raised the issue of breach of trust, something that everyone here has welcomed. However, we must also reflect on the sentiments that were expressed in the debate in the House of Lords on the breach of trust amendment and that were behind its being brought forward. Those centred on the notion that adult homosexuals were more likely to breach young people's trust. The amendment was not introduced because members of the House of Lords were committed to the values of equality. If they had been, they would also have accepted the need for equalisation of the age of consent. However, the breach of trust provisions in the bill provide our young people with greater protection from exploitation by older individuals.

**Phil Gallie:** Regardless of what has just been said, members have boasted about the new provisions on breach of trust. It is thanks to the House of Lords that they were introduced, because the Labour party did not include them in its original bill and had no intention of doing so.

**Michael Matheson:** I should like to hear how Phil Gallie squares the circle. If the House of Lords is so committed to the idea of equality, why did it not support the need to equalise the age of consent? If the member reflects on the debate in the House of Lords, he will see what hidden sentiment motivated members to raise the issue of breach of trust.

It is disappointing that the Conservatives choose not to support the bill today, given the additional benefits and protection that it would offer young people.

Although it is important to recognise that there are strongly held views on both sides of any debate, it is essential that the debate be informed by fact. I am sure that many of the organisations that signed up to the bill did so on the basis of the facts surrounding the case for change.

Those who have concerns about the equalisation of the age of consent need only consider the international comparisons. Other countries have done the same thing. Often in the United Kingdom, people resort to scaremongering on that matter, some of which has come today from the Conservative benches.

There is no real need for concern about the equalisation of the age of consent. As Roseanna Cunningham pointed out, even if the age of consent in the UK was equalised at 16, it would continue to be above that in many other European countries.

As a number of my colleagues have mentioned, the Scottish National party supports the aims of the bill and recognises the benefits of its enactment.

I want now, however, to refer to the Conservatives' amendment. I confess that I am not entirely sure of its purpose. Mr Gallie's decision in his speech to mix the debate on the bill with the issue of section 28 is regrettable and does not serve the debate well. Alongside that, John Young's assertion that our support for the bill and for the repeal of section 28 will do our prospects in the Ayr by-election no good is also regrettable. Some of us have principles that we believe we should stand up for; we believe that we should be honest and face the electorate. That is what we are doing by supporting today's motion.

I am also intrigued by the Conservatives' new-found faith in the Scottish people, which was lacking for some 17 years. I listened to what Michael Russell said about the matter. He mentioned the Conservatives' consultation on the poll tax and their consultation with the Scottish people on the decision to have a Scottish Parliament.

I will be a bit more generous. I thought that the Conservatives had perhaps lodged their amendment as a result of the common-sense revolution. I thought perhaps that they now realised that the Scottish Parliament should be able to enact policies itself and should not need to wait for Westminster to lead the way. However, when I saw the full text of the Conservative amendment, I realised that common sense is never quite as common as some people think it is.

As a number of members have said, the equalisation of the age of consent is a matter of human rights. It is a question not only of providing young people with greater protection, but of

protecting their right to have a homosexual relationship at the age of 16. It is time to end the criminalisation of people for their choice of lifestyle.

The Government has already admitted that if it had not chosen to act on the matter, it would have been in violation of articles 8 and 14 of the European convention on human rights. Given that the ECHR has been incorporated into the Scottish judicial system, that would have been unsustainable. I am sure that the Conservatives' answer would be—as they are on record as saying—to ditch the ECHR and all the rights that come with it.

I mentioned earlier a number of the major organisations that have supported the bill. Mr Gallie seems to have some concerns about the issue of consultation. In closing, therefore, I recommend that he examine Stonewall's document, which lists a variety of major organisations that work with young, gay people and outlines what they think should happen. Those organisations support the bill as it stands.

I will finish with a quotation from Barnardo's, which states:

"While the age of consent is different for homosexual and heterosexual young people, we are unable to work in a full and frank way with young people who are gay, or who are struggling to work out their sexual identity. Far from protecting them, the current law makes young men more vulnerable and alone at an age when they most need social support."

That comes from an organisation which does not make up its views, but which works with and listens to young people. That is the view which I believe the Parliament should endorse today.

16:45

**The Deputy Minister for Communities (Jackie Baillie):** I welcome the opportunity to give endorsement to the Sexual Offences (Amendment) Bill and to send it to Westminster with the full support of the Scottish Parliament. It is the best way to ensure equalisation of the age of consent across the United Kingdom at the earliest opportunity.

Today's debate has been in part on criminal justice matters, but equally it underscores the Scottish Executive's broader commitment to promoting equality of opportunity for all. We intend to support that commitment by the adoption of a strategic approach to equality within the Executive and by developing our wider strategy through consultation and dialogue with all interests.

The recent publication of our consultation paper, "Towards an Equality Strategy", will give all those in our society with an interest in equality issues the opportunity to contribute to developing a strategy

for the new Scotland: a Scotland characterised by social justice, tolerance and inclusion. The Scottish population is vibrant, diverse and multicultural. However, all too often those whose culture is not part of what might be described as the mainstream face exclusion, discrimination and harassment. We know that those in the gay, lesbian, bisexual and transgender communities face exclusion because of their sexual orientation. That is not acceptable in a modern, democratic society. As part of developing the first equality strategy for the Executive and the Parliament, we have an opportunity to address inequality and exclusion and to cultivate an environment that celebrates diversity, fosters tolerance and promotes understanding. We reject attitudes that isolate or exclude and are committed to equality of opportunity for all.

One area that has excited much recent interest, where we have already taken action, is the repeal of section 2A of the Local Government Act 1986. It has been raised today—let me remind members what that legislation says. It prohibits local authorities from

“intentionally promoting homosexuality or publishing material with the intention of promoting homosexuality”

or—and people forget the second part—

“promoting the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship”.

That legislation is unjust and reactionary—time has also shown that it is unusable. Nevertheless, its very existence has legitimised intolerance and prejudice against homosexuals. It has also acted as a constraint on the development of best practice in sex education and action against bullying. Repeal of section 2A will be included in the ethical standards in public life bill, which we will bring before the Parliament soon.

**Phil Gallie:** It was my understanding that the Executive had consulted on the bill and that many people had responded. From the minister's comments, it seems that the Executive has made up its mind. Does that mean that the consultation was not worth while?

**Jackie Baillie:** No, and I will take no lectures from Mr Gallie on consultation. The Executive listens to the people of Scotland. Seventy-five per cent of a total of 2,329 responses were in favour of repeal. Is Mr Gallie listening to them?

We recognise that some parents might fear that repeal will result in homosexuality being promoted in schools. They can be assured that the Executive is adamant that repeal of section 2A should not lead to what is termed “the promotion of homosexuality”. We will contact all directors of education, setting out clearly the intention behind repeal and its implications for sex education in

schools and providing an overview of the current guidance. Before repeal of section 2A comes into force, we will conduct a detailed examination of existing guidelines and revise them if necessary.

On a point of listening, let me ask whether Mr Gallie will listen to the Scottish Parent Teacher Council, which is in favour of repeal, when it points out that there have been no prosecutions under the legislation. Terms such as “promote”, “acceptability” or “pretended family relationship” have never been clarified in law. Because of that, teachers have been uncertain about how they might deal with homosexual issues if they arose.

The debate is about the nature of Scotland. I want a Scotland that is characterised by tolerance and social justice; a Scotland that is founded on the principles of equality; a Scotland that is modern and progressive. I welcome the Scottish National party's support for that progressive agenda and I hope that that same spirit of tolerance and modernisation will prevail when we address section 2A.

Lyndsay McIntosh and John Young spoke at some length, but left us unsure as to their views. Do they support equalisation? There was no indication of their position.

Support for the lowering of the homosexual age of consent is another part of our rejection of inequality. Homosexual young men are as deserving of tolerance and understanding as anyone and the removal of discrimination against them under the criminal law is a step forward.

I say to John Young that the age of consent in other countries is either the same as or lower than what is proposed. It is 14 in Italy and Austria and 12 in Spain.

The removal of the criminal liability of a boy under the age of consent who commits homosexual acts with someone over that age is another step forward. The removal of the provision will allow a young homosexual person to seek the advice and help that they need on issues such as how to practise safer sex, without fear of the law.

Our proposals do not, as some have suggested, add up to a package of measures to appease what is sometimes disparagingly called the gay lobby. They signal a move towards creating a society in Scotland where diversity is welcomed and in which all can take their place, regardless of sexuality.

That is not to say that the proposed changes have not raised concerns. There are those who consider that the lowering of the age of consent will impact on the numbers of those infected with sexually transmitted diseases such as HIV and AIDS. However, I must emphasise that there are no data to support that assertion. Indeed, a recent report from the radical organisation that was

referred to earlier, the BMA, concluded that the average age of people's first homosexual encounter was under 16 years, which is the same as the average age of people's first heterosexual encounter. It is vital that all young people receive effective health education.

The introduction of the abuse of trust offence represents another important measure to protect vulnerable young people from unwanted sexual attention. It applies without discrimination to young men and young women, regardless of sexuality, to protect them from those who might seek to exploit a position of trust to secure a sexual relationship. It demonstrates a commitment to protection for young people and should be welcomed by all. As part of taking forward our commitment on that, we will shortly introduce proposals to Parliament for further measures aimed at providing added protection for children and young people in a wide range of situations.

The Executive announced in its programme for government the establishment of a statutory index of persons who are unsuitable to work with children. Linked to that will be the introduction of measures to ban unsuitable people from working with, or from applying to work—in either a paid or a voluntary capacity—with children and young people. We expect shortly to be able to issue a pre-legislative consultation paper on the proposals. Members will be aware that we are also planning for the implementation of part V of the Police Act 1997. When that part is implemented, more thorough checks on a person's suitability to work with children will be possible.

As Phil Gallie mentioned, the cost to the voluntary sector of the introduction of the legislation will be kept under review, and to that end, a working group involving the voluntary sector has been set up to review pricing.

We are also consulting on the proposals for legislation to establish a Scottish commission for the regulation of care, which will regulate care services for adults and children, and to establish a Scottish social services council, which will regulate the social services work force. Those bodies will be able to play an important part in the protection of children and other vulnerable people.

In concluding—

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

**Jackie Baillie:** It has been rather a long conclusion, but this is a serious point. Let the Parliament raise its sights above the narrow view that is contained in the Tory amendment. The issue is not who changes the law, but that it is changed, and changed quickly. The interests and well-being of the people of Scotland are far more important than constitutional purity, and I welcome the SNP's recognition of that.

The UK Government has clearly signalled its intention to reintroduce the bill, because it regards the bill as unfinished business. It will, if necessary, use the Parliament Acts to ensure that the provisions that it contains are passed. The Parliament Acts mechanism requires that an identical bill be reintroduced. Removal of the Scottish provision would mean that the early opportunity to equalise the age of consent throughout the UK would be lost.

Let me remind members of part of Jim Wallace's opening speech. He said that Mr McLetchie responded to the First Minister's announcement by saying that

"the Scottish Conservatives, as a unionist party, have no problem in accepting that some acts—even those that cover devolved areas—should be enacted uniformly across the UK."—[*Official Report*, 9 June 1999; Vol 1, c 362-63.]

Is there a split? We should be told but, frankly, there are so few Conservatives that it does not really matter.

As Kate MacLean said, it is indeed rather bizarre that the Tories should be hiding behind constitutional niceties, particularly as Mr Gallie would prefer to be elsewhere. He might, however, have seriously damaged his chances, given that his pal Edwina Currie first introduced the bill, and that his party leader, William Hague, voted for it. Is Mr Hague wrong? Do tell. Is Mr Gallie so out of step—

**Phil Gallie:** I am glad of the opportunity to expand on such issues—issues on which the Scottish Conservatives are allowed free decisions. We wanted the issue to be brought to the chamber for a full debate.

**The Presiding Officer (Sir David Steel):** Minister, you must wind up now. [*Laughter.*]

**Jackie Baillie:** Thank you, Sir David.

Is Mr Gallie so out of step with Scottish society, or is there a hint—or a suspicion—of intolerance and prejudice behind the Conservative amendment? Let us have some honesty. I will leave others to decide the answer.

Let us send the bill to Westminster with our support. It is time for enlightened people in Scotland to join forces to end intolerance, prejudice and discrimination. Let us end them now.

**The Presiding Officer:** There are no Parliamentary Bureau motions so we move straight to decision time.

## Decision Time

17:00

**The Presiding Officer (Sir David Steel):** The first question is, that amendment S1M-430.1, in the name of Phil Gallie, which seeks to amend motion S1M-430, in the name of Mr Jim Wallace, on the Sexual Offences (Amendment) Bill, be agreed to. Are we all agreed?

**Members:** No.

**The Presiding Officer:** There will be a division. Those who wish to support Phil Gallie's amendment should press the yes button now.

### FOR

Aitken, Bill (Glasgow) (Con)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fergusson, Alex (South of Scotland) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Johnston, Nick (Mid Scotland and Fife) (Con)  
 Johnstone, Alex (North-East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Mundell, David (South of Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Ben (North-East Scotland) (Con)  
 Young, John (West of Scotland) (Con)

### AGAINST

Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Ewing, Dr Winnie (Highlands and Islands) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)

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)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 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)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeish, Henry (Central Fife) (Lab)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahan, Mr 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)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Mr Alex (Banff and Buchan) (SNP)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)  
 Wilson, Andrew (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 18, Against 90, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The second question is, that motion S1M-430, in the name of Mr Jim Wallace, on the Sexual Offences (Amendment) Bill, be agreed to. Are we all agreed?

**Members: No.**

**The Presiding Officer:** There will be a division. Those who wish to support Mr Wallace's motion should press the yes button now.

**FOR**

Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Ewing, Dr Winnie (Highlands and Islands) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 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, Etrick and Lauderdale) (LD)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 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)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeish, Henry (Central Fife) (Lab)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahan, Mr 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)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)

Paterson, Mr Gil (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Mr Alex (Banff and Buchan) (SNP)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)  
 Wilson, Andrew (Central Scotland) (SNP)

**AGAINST**

Aitken, Bill (Glasgow) (Con)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (South of Scotland) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Johnston, Nick (Mid Scotland and Fife) (Con)  
 Johnstone, Alex (North-East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLetchie, David (Lothians) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Young, John (West of Scotland) (Con)

**ABSTENTIONS**

Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)

**The Presiding Officer:** The result of the division is: For 90, Against 16, Abstentions 1.

*Motion agreed to.*

That the Parliament endorses the principles of equalising the age of consent for homosexual and heterosexual activity and creating a new criminal offence of breach of trust as set out in the Sexual Offences (Amendment) Bill considered by the UK Parliament in the 1998-99 parliamentary session and agrees that the UK Parliament should consider any Bill introduced in the same terms in the current session.

## Inverclyde (Flooding)

**The Presiding Officer (Sir David Steel):** The final item of business today is a members' business debate on motion S1M-371, in the name of Duncan McNeil, on flooding in Inverclyde. I ask those members who are not staying for the debate to leave quickly and quietly.

*Motion debated,*

That the Parliament notes that the recent flooding in Inverclyde dealt a blow to the area; recognises that this is a long-term, recurring problem; notes that, were it to persist, it may adversely affect investment in the area, and agrees that a multi-agency approach offers the best opportunity to facilitate a permanent solution.

17:03

**Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** I welcome the opportunity to have this debate and to speak as a member of the Scottish Parliament not for a dreary little shipbuilding town or a miserable rainy backwater, but as a representative of—

**Ben Wallace (North-East Scotland) (Con):** On a point of order, Presiding Officer.

**The Presiding Officer:** I am sorry Mr McNeil—

**Mr McNeil:** Shall I start again?

**The Presiding Officer:** No. I have a point of order. Hold on for a minute.

**Ben Wallace:** I would like it to be recorded in the *Official Report* that in the second vote I voted against the motion. There was a problem with the voting box.

**The Presiding Officer:** We were one vote short compared with the previous vote.

**Ben Wallace:** That was mine.

**The Presiding Officer:** So you would have voted against?

**Ben Wallace:** Yes.

**The Presiding Officer:** Mr McNeil, I am sorry that I interrupted you but that was a legitimate point of order.

**Mr McNeil:** That is okay. We all make mistakes.

As I was saying, I am here not as a representative of an old shipbuilding town, but as a representative of the export manufacturing capital of Scotland. Some people find that hard to believe, but I can assure them that it is true. In recent years, Inverclyde in general, and Greenock in particular, have overcome many of the problems that were the result of the decline of the traditional industries.

We are now beginning to recover. We used to build ships; we now build microchips and computers. We continue to succeed in attracting major high-tech investment—IBM has its base in Greenock, and One2One and National Semiconductor are also there, to name just three. They have all invested heavily in Greenock. Empty shipyards have been turned into mortgage centres; derelict docks have been replaced with the college campus; and unemployment and degeneration have been replaced by new jobs and fresh opportunities.

When I look at how far we have come, I am proud of our achievements. We have begun to reverse the decline and have taken the first real steps along the road to sustainable prosperity. However, I feel apprehensive. I am concerned that all the hard work of the people of Greenock could be for nothing, and that we could end up back where we started. The reason can be summed up in a single word—water. It seems that every time we have heavy rain in Greenock, transport links are cut and we become Scotland's newest island. That poses a threat to our local economy and is simply not good enough for the export capital of Scotland. The significance of that cannot be overplayed.

Let us be absolutely clear what we are talking about: this is not a debate about a few minor roads in a housing scheme being closed, as inconvenient as that might be, and as real as the problems might be to constituents; we are talking about the A8—the only route in and out of the area—being impassable. That raises the stakes. Rather than bemoaning a hindrance, we are talking about a real threat to investment, jobs and continued regeneration.

Last summer, approximately half a million visitors attended the Tall Ships event and saw with their own eyes the giant strides that our community and our area have taken. They saw the new Inverclyde and went away with a positive image, which put us on the map as a tourist and leisure area. But what would have happened if we had had a wet weekend? Only a fraction of those visitors would have been able to attend, denying us all those benefits.

Many parts of the constituency are affected by the problem. We will shortly have an improved and expanded marina at Inverkip, which will address our niche market of sailing. How can we maximise that development's potential and convince those who might wish to use it to berth their yacht when we cannot even guarantee that it will be open 52 weekends of the year?

There has also been a huge expansion in housing in the Wemyss Bay and Inverkip areas. Those houses are essential to address the long-term depopulation that damages Inverclyde's

economic viability. Isolating those new developments would leave hundreds of people stranded. It would keep workers from their place of business, pupils from schools and would-be consumers from the Oak mall and the Waterfront complex.

Gourock is a transport hub with connections to Glasgow and the islands. What future will the exciting new developments at Gourock have if we do not get the transport links sorted? Greenock is also hard hit. People who work in courts, schools, the emergency services, businesses and many other places all suffer extreme inconvenience and financial loss. I will return to those issues later.

Not only the roads are affected. Water running down from the hills to the sea has caused railway stations to close and has risked undermining the track. If Inverclyde is cut off, the damage to commerce is significant. Every day, 10,000 people commute from Inverclyde and 7,000 come in—so 17,000 people are on the move twice a day, yet the road link is not secure. That figure excludes non-commuter commercial traffic. Deliveries to and dispatches from various businesses must also be made daily.

At the moment there are several semi-derelict sites that are crying out for redevelopment, with the potential to deliver jobs and to attract investment. How can we attract companies to a site that is rendered inaccessible every winter because of flooding? I am full of admiration for the invest in Inverclyde campaign, but selling an underwater business park is beyond even the talents of those who run the campaign.

Furthermore, the threat to the retention and expansion of investment is not the only issue raised by the flooding. Local businesses, public services, emergency services, councils, official bodies and others are subject to inconvenience, disruption and financial loss.

I must admit that on the morning on which I was stranded I had no appreciation of the number of agencies and services that must be mobilised in such situations. However, as I sat, stranded in my car, on the morning of Tuesday 30 November—the day of the last severe flood—I saw police officers, firefighters and workers from the local council and West of Scotland Water all striving in abject conditions to alleviate the problem. I feel that it is necessary to put on record that this debate is in no way a criticism of the efforts of those workers. I congratulate them on their efforts. Indeed, I only missed a couple of meetings, while they struggled with the elements.

The police have confirmed that 40 police man hours are wasted in setting up diversions and roadblocks every time the A8 floods. That is 40 hours that would be much better spent fighting

crime. Money is being poured down the drain. The local chamber of commerce has also expressed concern over the cost to businesses from part closures of the A8.

Glenbrae Children's Centre was flooded not once, but twice during November. The first flood, on 4 November, caused £9,000-worth of damage and the centre was closed for a week. The second flood, on 30 November, was more serious. The centre was closed down and the children farmed out to other accommodation.

Have I run over my time?

**The Deputy Presiding Officer (Mr George Reid):** I have been generous because of the interruption. You have another minute.

**Mr McNeil:** I have tried to describe the effects of flooding on the community. When we have ice, rain and snow, preventive measures must be put in place. Similar preventive measures need to be put in place when Lloyd Quinan's former colleagues inform us that rain is on its way—that is very important. It is clear that many agencies and bodies are affected by flooding problems. Any permanent solution must involve partnership between those agencies, perhaps a strategic forum comprising officials from interested parties.

We need to address the issue of planned maintenance and regular monitoring. That always seems to happen after the event, rather than in anticipation. In the longer term, it is clear that having a single route into the area is the real problem. Every time we experience flooding difficulties, we are completely cut off. If we had another road we could bypass some of the problems. Such situations might be inconvenient, but at least the community would not be stranded.

**The Deputy Presiding Officer:** I call Colin Campbell, to be followed by Annabel Goldie. Please keep your speeches fairly short.

17:14

**Colin Campbell (West of Scotland) (SNP):** I will keep it short. I share Duncan McNeil's view on this. But for the fact that my father removed to Paisley for an additional £50 a year in 1938, I would have been a Greenockian too—nobody is perfect. I have great pleasure in supporting Duncan's motion and I shall repeat some of his propaganda.

Inverclyde is ideally situated for commerce and industry and has excellent examples of both, in mortgage centres, electronics and shipbuilding. Its transport links are without parallel. The A8 links it with the M8, and it is feasible to drive on dual carriageway from Inverclyde to Exeter or other points as far south. It takes 15 to 20 minutes by road to Glasgow airport, and there are frequent



train services. There is a container terminal that operates a regular transatlantic service.

Interested parties in the locality, as Duncan said, have set up the invest in Inverclyde scheme to induce more people to come to the area.

Unfortunately, Port Glasgow—which I will stick to because I have contested that part more frequently than anywhere else—is susceptible to regular flooding at its entry. At the junction of the A8, the foot of the Clune Brae and Castle Road, where Ferguson Shipbuilders Ltd lies—which should perhaps more appropriately be called a confluence—the Blackstoun roundabout floods to a depth of several feet. That has happened twice recently and is a fairly regular feature of Inverclyde life. It was put to me as a valid local issue the first time I stood in a European election campaign in the area. The records of the *Greenock Telegraph* suggest that such flooding has gone on for decades, if not centuries.

The drivers of the lead westbound vehicles on the blocked A8 have, until recently, faced enormous posters exhorting them to invest in Inverclyde, while they are unable to reach their objective without a labyrinthine deviation through the back streets of Inverclyde.

During the recent flooding in Inverclyde, the centrally integrated traffic control signs on the M8 westbound approach to Glasgow airport announced “Greenock A8 Closed” and the A737 Irvine to Paisley approaching the St James’s roundabout showed the same message. Every potential investor going to the airport or travelling on the roads knew that Inverclyde was inaccessible. Radio listeners and television viewers received the same message. Such situations cannot help Inverclyde’s economic recovery.

I was aware that local authorities submit flood prevention plans to the Scottish Executive, but I presumed that the Executive prioritised flood prevention schemes and asked a question to that effect in December. The reply, on 11 January, said that as the responsibility for flood prevention plans lies with local councils, the Executive does not prioritise the schemes. I find that surprising, although I understand the reason behind it.

I also asked the Executive to list the schemes that it intends to support in the west of Scotland. The answer indicated that only two local authorities, East Dunbartonshire and Renfrewshire, had completed and submitted their plans. Inverclyde Council did not figure in the answer. Although I know that it is carrying out preparatory investigations, I believe that the council has been slow off the mark in authorising its officials to put in train the necessary flood prevention arrangements. Neighbouring

Renfrewshire’s flood prevention schemes are well under way and some are complete.

In conclusion, if members will pardon the pun, all hands must be put to the pump to resolve the matter. I agree with Duncan McNeil that a multi-agency approach is required and I seek assurance that the Scottish Executive will play its part quickly when Inverclyde Council produces its plans.

17:18

**Miss Annabel Goldie (West of Scotland) (Con):** I, too, thank Mr McNeil for lodging the motion and for bringing the problem to the attention of the chamber. He, Colin Campbell and I all share not just a deep knowledge of, but a profound affection for, Inverclyde.

I have one experience that perhaps Duncan does not share—that of playing hockey in Battery park, in appalling weather, in a gym slip and black stockings. At least, I hope that we do not share that experience. As I reflected on the many years that have passed since I did that, it occurred to me that the weather has deteriorated. Conditions have become wetter and, sadly, Inverclyde has been a victim of that, as has been manifest in the problems caused by the acute flooding in December.

I echo what Duncan McNeil said—the transport infrastructure is crucial to Inverclyde’s economy, because the area is a jewel in the enterprise crown. We must recognise that Inverclyde is a real success story of grit and determination by people in the area to turn round adversity and bring something positive to the area. Inverclyde has a lot going for it and all members who are taking part in the debate are anxious to ensure that that is not impeded or obstructed.

Undoubtedly, the recent flooding in the area led to gridlock and chaos for commuters, businesses and schools. I am aware that the Executive met representatives from Inverclyde Council on 17 December with a view to setting up a study to recommend improvements to prevent further disruption. We would all like to know the outcome of that meeting.

I understand that the Executive has not requested a report from West of Scotland Water on the causes of the flooding and has not assessed the impact of the flooding on local business. Although I understand that, technically speaking, that might not be the responsibility of the minister’s department, members are profoundly concerned that the Executive take on board more actively than it has done so far the difficulties that we have identified.

The nub of the problem is simple. I agree with Duncan McNeil that we need a multi-agency

approach. I would like the Executive to clarify the outcome of the meeting on 17 December. Will the Executive encourage collaboration among itself, the local council, West of Scotland Water and the local emergency services, including the police, to prepare for, and pre-plan management of, flooding when it occurs—as occur it will—and to identify what measures can be taken to reduce and, if possible, eradicate flooding?

On a more serious note, will the Executive accept that, even if that were achieved, failure to improve the M8 at the Kingston bridge bottleneck will create as significant a barrier to commerce and industry in Inverclyde as any unaddressed issue of flooding?

17:21

**Hugh Henry (Paisley South) (Lab):** I congratulate Annabel Goldie on yet again plugging the M74.

Duncan McNeil said that, in the recent floods, Greenock became an island, cut off from the rest of Renfrewshire. He will know—although other members will not—just how devastated people in Renfrewshire feel about being cut off from Greenock.

Although Duncan McNeil described the economic consequences of the flooding, we should not underestimate the personal tragedy that the flooding brought to householders, whose homes were in some cases destroyed. My constituency, which is near Duncan's, also suffered badly. I saw, and continue to see, the problems caused by the flooding.

Duncan is right to say that we need a multi-agency approach. As Colin Campbell said, flood plans have been prepared in the Renfrewshire Council area. The Scottish Office and then the Scottish Executive have financially supported such work, but more needs to be done. Areas such as Paisley and Greenock require financial assistance to ensure that flooding does not cause personal and economic devastation. Duncan is equally right to say that a range of other agencies must consider their responsibilities and make plans.

Annabel Goldie made a good point about the responsibilities of others. We should require local authorities to plan for flood emergencies, as we do for civil emergencies, and ask them to tackle and eradicate the problems of flooding in areas that we know are particularly affected. We should not leave the matter to chance or to good will.

Duncan discussed some of the bigger infrastructure issues, but some small things can be done to help. In one place in my constituency, the Scottish Executive and the council are prepared to implement flood prevention measures but,

because of objections by some householders, the matter has to go to appeal. The appeal will not be heard for five or six months, but the work to solve problems for next winter needs to start in the next couple of months. In such situations, the Scottish Executive should consider giving priority to appeals that could help to eradicate damage that will affect people. There would be no financial burdens associated with such a step.

I congratulate Duncan, who has eloquently identified the problems in Inverclyde. However, we must all work together on this issue.

17:25

**The Minister for Transport and the Environment (Sarah Boyack):** I thank Duncan McNeil for giving members an opportunity to discuss this important issue. Some of the detailed points raised by members in the debate are precisely those to which I wish to respond. We need more clarity on the role that we can all play.

I will kick off by saying that Duncan McNeil's comments on the economic achievements of Inverclyde—the success that has been generated locally in terms of inward investment, such as the call centre that is being established—are well noted. A lot of work has been done and the Executive fully recognises the importance of transport infrastructure and investment in encouraging new businesses to come to Inverclyde and existing businesses to develop and grow. His points on housing, education and tourism are also extremely relevant, as flooding has a direct impact on a whole range of interests in our communities. We must reflect on Hugh Henry's point about the devastation that flooding can cause individuals by destroying houses, for example.

The Executive takes flood prevention and the consequences of flooding extremely seriously. Before Christmas, Greenock, Port Glasgow and Gourock experienced exceptionally heavy and sustained flooding. Transport was disrupted and property both threatened with floods and flooded. However, it is not the first time that floods have occurred. Duncan McNeil made a critical point at the start of the debate. We need to consider how to tackle flooding in future. That will involve identifying those areas that are at risk from flooding—we must take a long-term view but also act now.

We know that people do not regard flooding as a top priority until it happens. Part of the trick will be to ensure that we consider prevention rather than tackle the problem after it has occurred. The comments made on that point by Duncan McNeil, Annabel Goldie, Colin Campbell and Hugh Henry were all correct.

It is important that, as Minister for Transport and the Environment, I advise members that I heard about the flooding in Inverclyde on the same day as we launched the Executive's climate change study reports. Unless we begin to tackle climate change, the future will hold more severe flooding and heavier and more sustained rainfall. We take the view that we must start the work on this long-term issue now, although much has been done in the past few years.

The Executive must play its part as well. Duncan McNeil highlighted extremely effectively the significance and importance to Greenock and Port Glasgow of the A8. The problems are partly caused by the fact that the A8 is a low-lying route and tends to bear the brunt of major flooding. Unfortunately, the flooding this year was more severe than usual. I recognise the importance of the fact that, when the A8 is impassable, there is no suitable method of traffic diversion into the area.

I hope that members will be pleased to hear that immediate action was taken to minimise the likelihood of the road flooding again. Known trouble spots have been checked and pipes and culverts have been cleaned to ensure that they operate at maximum efficiency. However, initial investigations by Inverclyde Council have identified that, in addition to the possible problems caused by watercourses and culverts, there may also be problems with the sewerage system, to which Duncan McNeil alluded. That is why the work of West of Scotland Water in continuing to support and assist the investigations, as well as in carrying out works to prevent its sewers flooding, is incredibly important. The surface water drainage system in parts of the area is old and records are not always available. The information made available by the investigations will be critical in enabling us to move forward.

Several members mentioned a multi-agency approach. I absolutely agree that such an approach represents the effective way in which to tackle the risks to property and infrastructure. Progress has already been made in Inverclyde. Annabel Goldie referred to a meeting held in December. It has been agreed that the council should appoint consultants to examine the worst-affected areas, to report their findings and to make recommendations for remedial action, which will be acted on by the agencies involved.

I assure members that the meeting, whose participants included the Scottish Executive, Inverclyde Council, Strathclyde police and West of Scotland Water, is not the end point; it is the point from where we will move forward. We have a multi-agency approach and the challenge is to ensure that we take that approach forward effectively.

I hope that the consultants will make their recommendations within a couple of months. The timetable for implementing the flood prevention scheme—or any measures that arise from it—will depend partly on its complexity and partly on the extent to which agencies can programme in the work.

The Executive will of course be responsible for any measures required to improve the A8, subject to the availability of funding. The Executive is also providing grant support for eligible, confirmed flood prevention schemes. What Hugh Henry said about that was very relevant.

There has been investment and Renfrewshire Council has identified flood prevention schemes, under which councils are eligible for up to 50 per cent of funding. The point is to get the process moving, to get the schemes under way and to get the Executive to consider them.

Councils have an important role to play in implementing legislation to tackle flood prevention. Although we can debate this matter in Parliament and discuss the issues once floods have occurred, the key thing is advance planning, with local authorities working out the local priorities. They can identify the areas—which they know best—that require attention and then approach the Executive with flood prevention schemes.

The Flood Prevention and Land Drainage (Scotland) Act 1997 translated many of the permissive powers that councils had into duties. The act requires local authorities to assess watercourses in their areas and to find out whether they are liable to flood non-agricultural land. It requires councils to maintain those watercourses, ensuring that the likelihood of flooding is reduced, and to prepare and publish reports at intervals of not more than two years, identifying the measures that they have taken and those that they think important to prevent or lessen the impact of flooding. The reports should specify all occurrences of flooding of non-agricultural land. That information is being collected; we need it to be translated into flood protection schemes.

To date, Inverclyde Council has proposed no schemes and has not asked the Scottish Executive—or its predecessor, the Scottish Office—for additional funding. However, I know that the council is addressing flooding concerns and that it is proposing to submit two flood prevention schemes to the Executive for confirmation in the next 12 to 15 months.

Hugh Henry's points on the planning process were relevant. Once schemes have been submitted to the Executive, they need to go through the planning process. It is important that the Executive processes inquiries as swiftly as possible, and it is up to the council to attempt to

secure agreement locally, because the schemes are critical in tackling the long-term problems of flooding.

Work is proceeding to tackle the problems of flooding, but we also need to take a long-term view. The Executive has set out guidance in its national planning policy guideline No 7, on planning and flooding. That guidance enables local authorities to begin to address the issue.

Annabel Goldie's anecdote about playing hockey in appalling weather conditions—some time ago—is relevant, as many playing fields and other areas where there is currently no construction might be prone to floods. It is important that, any time a new development is identified and proposed for a site, the local authority examines the potential risk and works with the Scottish Environment Protection Agency.

We should tackle the long-term problems with existing developments—we will tackle all the problems that Duncan McNeil mentioned in his speech—and look to the future. At a local level, that means planning and flood prevention schemes. At a big-picture level, it is a matter of how we tackle issues that may seem intangible, such as climate change.

I thank all the members who took part in this debate, which I think has been constructive. I hope that they can now make progress with related issues concerning constituents or local councils.

*Meeting closed at 17:33.*

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