

MEETING OF THE PARLIAMENT

Thursday 22 June 2000

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Scottish Parliament

Thursday 22 June 2000

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

The Presiding Officer (Sir David Steel): Good morning. Before we start the business of the day, I should inform the chamber that I have accepted a request from the Executive for an emergency statement on the emerging findings of Her Majesty's chief inspector of constabulary in his inspection of the Scottish Criminal Records Office. That will take place at 12.15 pm, by agreement with the SNP, whose morning this is. That means that the second debate this morning will be a quarter of an hour shorter. Mr McLetchie has kindly agreed to delay his members' business by a quarter of an hour.

We are very tight for time throughout the morning. I appeal to the opening speakers to stick strictly to the time limits, so that as many members as possible can participate in the two debates.

Bruce Crawford (Mid Scotland and Fife) (SNP): We accept that the statement needs to be made, but we decided that we would take 10 minutes off our longer debate on fuel duty, and five minutes off the debate on the McCrone report.

The Presiding Officer: That is fine. I had been told only that 15 minutes would be taken off the morning's debates. The first debate will, therefore, be five minutes shorter than was intended, which is very short indeed.

McCrone Report

The Presiding Officer (Sir David Steel): The first item of business is a Scottish National Party debate on motion S1M-1027, in the name of Nicola Sturgeon, on the McCrone report, and an amendment to that motion.

09:31

Nicola Sturgeon (Glasgow) (SNP): I will be as brief as I can.

Last September, when Sam Galbraith, the Minister for Children and Education, announced the establishment of the McCrone committee, he said:

"We will examine the committee's recommendations when they are passed to us. I am sure that all members will have a view on those arrangements and we will wish to discuss the matter at that time."—[*Official Report*, 22 September 2000; Vol 2, c 631.]

Because the minister has not afforded this

Parliament the opportunity to have even a preliminary debate on the report of the McCrone committee, the SNP has decided to use some of its time to allow such a debate to take place.

Back in September, I was one of those people who admitted to being sceptical about the minister's motivation in setting up the committee. I suspected that it was more about getting the awkward problem of teachers' pay and conditions off his desk for a few months than about finding a genuine and long-term solution. Since then, I have waited to be proved wrong and to be convinced that the McCrone report would provide a basis for moving forward, for properly rewarding our teachers for the excellent work that they do, and for equipping Scottish education for the future.

I believe that the report of the McCrone committee provides us with that opportunity. I pay tribute to Gavin McCrone and his colleagues—they were not given an easy task, but they have come up with a set of recommendations that, in my view, point the way ahead. They have also made a number of telling observations about the state of our education system—observations that merit a response from the Executive. However, all that we have had so far from ministers is silence. Sam Galbraith is obviously so desperate not to break his silence that he has not even bothered to show up this morning for this debate.

Before Peter Peacock stands up to accuse me of not understanding how these things work, I should make it clear that I accept that the detail and the implementation of the McCrone report—in so far as it concerns teachers' pay and conditions of service—are a matter for negotiation between the Executive, teachers and local authorities. No one expects the Executive to pre-empt those negotiations by giving a line-by-line response to the report. The discussion and dialogue to which the Executive refers in its amendment is important. However, that does not prevent it from taking a view on the report's main conclusions and from telling the people of Scotland, who have footed the bill for the committee's deliberations, what that view is, instead of being struck dumb for fear of having to put its money where its mouth is.

Surely the Scottish Executive has an opinion on the report. The other parties to the negotiations—the unions and local authorities—have an opinion and have been happy to tell people what that is. Will the minister today tell us what his opinion is? After all, it was Sam Galbraith who established the committee, appointed its members and decided its remit. After nine months of deliberations and £500,000 of taxpayers' money, surely it is reasonable to expect that Sam Galbraith or his deputy has an opinion on whether the report is good, bad or indifferent.

On the day that the report was published, Sam

Galbraith said that he needed time to consider the recommendations carefully. He has now had three weeks. I do not know how long it takes him to read a report, but after three weeks surely it is time for the rest of us to be told what he thinks.

Does Sam Galbraith think that the report is on the right track in what it says about teachers' pay, the structure of the profession, improving initial teacher education, the importance of continuing professional development, and the scandal of so many teachers being on short-term contracts? Does he agree with the committee that the increased demands on teachers arising from the social inclusion agenda are not being adequately resourced? Does he agree that the Executive needs to take effective action to deal with the problem of pupil indiscipline in schools? Does he agree that the number and nature of recent Government policy initiatives have substantially increased the burden on teachers, and that teachers feel that the amount of bureaucracy in teaching has grown beyond reasonable proportions? Does he agree with the committee when it questions whether all of that really adds value? Does he accept the view of the committee that, notwithstanding the negotiations about implementation, its report should be viewed as a whole, and that no part should be taken in isolation from the others?

Those are straightforward questions, which the minister can answer without in any way preempting the negotiations that will take place over the summer months. Why will not the minister answer those questions? Does not the Scottish public have a right to know what their Government thinks about a matter of such importance? Let us remember this point: the McCrone report does not just deal with teachers' pay and conditions of service and it does not just affect teachers and their employers; it is also about the learning conditions of our children. It affects every child and every parent in Scotland. They know how important it is. They know the opportunities that it provides for the education system and the dire consequences if those opportunities are squandered.

The kids and the parents will not be party to the negotiations, however. That is why they need to know the Executive's position. Will the Executive be negotiating to implement McCrone, or simply negotiating it away? The silence of the Executive gives rise to the suspicion that it is not committed to implementing McCrone, that those who thought that the setting up of the McCrone committee was a delaying tactic were right, and that what the Executive is now doing is simply delaying further. When the Executive, which unilaterally decided to set up the committee and unilaterally decided to abolish the Scottish Joint Negotiating Committee against the wish of teachers, starts talking about

genuine consultation and partnership through constructive dialogue, as it does in its amendment, one cannot help but get the feeling that an issue is being dodged.

That issue is the fact that, in the words of the McCrone report, the

"recommendations will require significant additional funds."

According to the Convention of Scottish Local Authorities, the bill will be in excess of £400 million a year—a figure that I note from weekend press reports is not now disputed by the Executive. Will the minister today accept that that will be the bill? Will he also accept that that additional funding must come from the Scottish Executive and that local authorities, which this year were forced to impose education cuts to the tune of £23 million, cannot foot the bill? Does he agree with the COSLA president Norman Murray, who said that

"local authorities are not able to contribute anything. The money is just not there. If McCrone's recommendations are not funded centrally, then they cannot be implemented"?

Will the Executive tell the Parliament, Scotland's teachers, local authorities, parents and children how much money it will make available from central Government to fund the recommendations of the committee that it established? That is a simple question, which only the Executive can answer. Without the answer, what is the point in entering into negotiations when no party to those negotiations and no one outside those negotiations knows whether the money will be available to implement the outcome of the talks?

If the Executive is really committed to dialogue and discussion, it is about time that it started listening to the views of those with whom it will be negotiating. The Educational Institute of Scotland says:

"If this process is going anywhere there has to be money on the table. If there is no funding then this process is effectively dead."

Where is the funding? The Scottish Secondary Teachers Association said:

"There is no point in discussing this any further if the Executive is not going to agree to fund the recommendations."

How much money will be made available? COSLA said:

"We must know that we have the means to deliver on whatever is collectively decided."

I repeat the question: how much money will the Executive make available?

The message could not be clearer. The Executive must agree to fund McCrone, or McCrone will fail. If that happens, make no mistake about it, the failure will be Sam Galbraith's, Peter Peacock's and the Executive's.

There is real will on the part of teachers and local authorities to make progress over the next few months.

The remaining question is whether the Scottish Executive shares that commitment. It is time for the Executive to break its silence and to put its weight and its money behind a process that has the potential to reward teachers and to equip Scottish education for the new millennium.

Let us hear some answers from the minister today. What does he think of McCrone, even in general terms? How much money will he provide to fund the proposals? Will he fund them in full? If not, how much is available? Let us ensure that the negotiations that the minister is asking people to enter into over the next few months are negotiations with meaning and not simply negotiations in a vacuum.

“Education, education, education” was a good election slogan. I remember the Minister for Health and Community Care—she is sitting beside Peter Peacock—as education spokesperson mouthing that slogan with almost tiresome regularity during the election campaign. I shall be charitable—it was a good slogan. However, the answers that the minister gives to the questions this morning will prove whether it was any more than a good slogan for the Executive.

Let us hear some answers from the minister today. Let us tell the people out there what the minister thinks of the process that the Executive set up and—crucially—whether the Executive is prepared, at long last, to put its money where its mouth is.

I move,

That the Parliament calls upon the Scottish Executive to publish its response to the report of the McCrone Committee of Inquiry into the Professional Conditions of Service for Teachers and to confirm what additional resources it will make available to local authorities to fund the committee’s recommendations.

09:41

The Deputy Minister for Children and Education (Peter Peacock): I do not like to be uncharitable, but I am afraid that once again we have heard from Nicola Sturgeon the Scottish National Party’s complete inexperience of the real world of government and the extent of its irresponsibility about these issues.

The world that the Executive occupies is one where approaches to policy and decisions matter. It is not a world of posture or of gesture, which, I am afraid, is what characterises the SNP’s world. We will not be drawn down the route suggested by the SNP. The teachers—and the pupils who depend on them—deserve better consideration from the Parliament than that suggested today.

The position set out by Nicola almost inevitably contradicts the position that the SNP set out just a few months ago.

I will take this opportunity to outline the approach that the Executive has adopted—and is adopting—to achieve our objectives of having a well-motivated teaching profession, capable of attracting and retaining teachers for the whole of their career and serving the needs of our modern and ever-changing society.

Last year, in announcing that the independent inquiry would be set up, Sam Galbraith gave a commitment to consult all relevant parties on its recommendations before any decisions on implementation were made. The Executive treats its commitments seriously and honours them.

That is in stark contrast to the SNP. When Sam Galbraith announced the inquiry, Nicola Sturgeon questioned its very purpose. “Why have a committee at all?” she asked. “How can the minister justify the substantial cost to the taxpayer?” Well, predictably, we have another volte-face from the SNP. She now appears to support the outcome of the committee of inquiry that she so vigorously opposed in the past. She now demands—

Nicola Sturgeon: Will the minister give way?

Peter Peacock: No, I will not give way.

She now demands that the Executive gives a commitment to fund the recommendations of the committee, which she thought entirely unjustified, before any of the detailed discussions with the key players have been undertaken. No doubt that is the approach that pervades the SNP and has brought it to the brink of financial ruin. It spends first, it discusses the volume of the spending later and it discusses the purpose of the spending even further down the road. That is an approach that makes the SNP completely unfit for government—that is why the Scottish people have never trusted it with government.

Brian Adam (North-East Scotland) (SNP): Will the minister give way?

Peter Peacock: No, I will not give way, as I have only a short time and I wish to get through this.

On 24 May, in response to a written question, Sam Galbraith said that, after the publication of the McCrone committee report on 31 May, we would enter a period of consultation with the relevant parties. He wrote, setting out his proposals on how to proceed, to each of those parties: the trade unions, the management side of the local authorities and the Education, Culture and Sport Committee. Copies of his letters were placed in the Scottish Parliament information centre.

After we laid out our proposals for consultation, all the relevant parties signed up to them. We have been clear and consistent. The work of the McCrone committee and its conclusions require the detailed, careful and collective consideration of all those involved. When we say collective, we mean precisely that. When we say that we will consult, that is precisely what we will do.

Nevertheless, less than one month after the publication of the McCrone report, we are asked to break that commitment and to issue immediate pronouncements. That is not how the Scottish Executive does business.

Nicola Sturgeon: With all due respect to the minister, I think that he is rather missing the point of the debate—I do not suppose that that will surprise anyone. No one is asking him to pre-empt the negotiations, but surely it is not too much to ask the Government to tell everyone involved in the negotiations, as well as the public, what the budget is. How much money is available to fund the outcome of the negotiations? Surely that is a basic starting point for all negotiations. That is a question that only he can answer, so why does not he stop prevaricating and answer it now?

Peter Peacock: That is another example of a question that confirms the inexperience of the SNP in these matters. Nicola Sturgeon is saying, “Don’t pre-empt the negotiations, but please, Mr Minister, declare your hand on every point of detail in the report in advance.” That is a ludicrous position and she knows it.

Six months ago, the Parliament asked us to continue working towards the objective of ensuring that there is a modern, adaptive and flexible mechanism for determining the professional conditions of service for teachers in Scottish schools. If we are to take that task seriously—and we do take it seriously—we must recognise that all parties must have the opportunity to consider the report and its recommendations in detail, to take time for reasoned discussion and reflection, and to talk to one another. We will not achieve our objective if we are rushed into premature decisions and conclusions. The Executive will resist that—we will not be bounced into that position to satisfy an agenda that has little to do with creating the quality of education in Scotland that we all want and that our children deserve.

We have begun the discussions and we are honouring our commitments. We are serious about the task of creating the world-class education system that Scotland deserves and of which all our people—teachers, parents and children—can be proud. We will not let crude opportunism deflect us from that task.

The approach that we are taking has the full support of the key parties. Only yesterday, the EIS

issued a statement that said:

“we believe that there is very little scope for debate about McCrone at this time. We welcome the fact that commentators have refrained from discussing McCrone to date. It is very necessary that all of those concerned have the time to properly consider what we believe is a good Report . . . Time to consider is of particular importance to teachers . . . We appreciate the restraint shown by others which has allowed this breathing space”.

Sadly, but predictably, that restraint has not been shown by SNP members. Their motivation and reasons for holding this debate are clear for all to see. Their approach should be clearly rejected.

I move amendment S1M-1027.1, to leave out from “calls upon” to end and insert:

“welcomes the Executive’s approach to establish genuine consultation and partnership through constructive dialogue and mature consideration of the recommendations of the McCrone Report, and calls upon the Executive to maintain its progress towards the objective of securing a modern and flexible mechanism for determining the professional conditions of service for teachers in Scotland’s schools as a critical determinant in establishing a world class reputation for the Scottish education system.”

09:47

Mr Brian Monteith (Mid Scotland and Fife) (Con): I humbly announce that the Conservatives will not be supporting the SNP motion today—no doubt that will please SNP members. If I may throw some of Nicola Sturgeon’s words back at her, I will say that the reason that we will not support her motion is that we think that it is political posturing.

That will come as no surprise to anyone in this chamber who has heard the SNP contribution to the education debate over the past year. I hear a respectable position, which I am happy to argue with, from the Labour benches. I also hear a respectable position put forward by Ian Jenkins on behalf of the Liberal Democrats. However, when I listen to the SNP outlining its position on education, what I hear is the latest briefing from the EIS—or was it the latest briefing from the SSTA? In a debate on discipline, the SNP looks up the National Association of Schoolmasters/Union of Women Teachers briefing, because that organisation is champing at the bit on discipline.

At times one has to wonder whether the SNP and Nicola Sturgeon are the fifth column for the teaching trade unions, so obviously do they think that the way in which to win the education debate is simply to talk about teachers and teaching. I heard Nicola Sturgeon’s intervention in Peter Peacock’s speech. If she thinks that one negotiates by showing one’s hand, I would love to play poker with her. I have no doubt that, although the Conservatives may not win the votes in parliamentary debates, I would certainly win a

game of cards with Nicola.

Although the McCrone report has been largely welcomed by the teaching sector, there are concerns about the costs and about who is expected to foot the bill. The size of the bill is another matter, as a variety of conflicting figures have been thrown in the air. Professor McCrone estimated the costs at £260 million—a figure that Sam Galbraith seemed to admit to COSLA might not be enough. Roy Jobson, the director of education on City of Edinburgh Council, estimated that the initiative could cost £25 million to implement in Edinburgh alone. Claims of scaremongering were made when COSLA estimated that costs could total £500 million over five years.

Bruce Crawford (Mid Scotland and Fife) (SNP): Brian Monteith may be talking about costs, but McCrone himself said that

“our recommendations will require significant additional funds. We consider that inescapable, if we are to put the teaching profession on a sound basis for the new century and improve the quality of school education in Scotland.”

Does not Mr Monteith think that we could at least hear today from the Executive that it is prepared to put some money on the table and make a commitment that acknowledges the inescapable conclusion that the extra cash must be made available? The Executive should at least announce that it is prepared to put its hand in its pocket.

Mr Monteith: It is not too difficult to find out—from reading the speeches, listening to the minister today and examining what has been said in committee—that the Executive is going into the discussion well aware that more funds will be required, as I will demonstrate later in my speech.

Savings have to be made in some areas. However, the only specific figure in the report is the £100 million that could be saved through reductions in the provision of supply cover for planned absences. It is interesting to note that that was the one aspect that the EIS said that it was less than happy with at its annual general meeting.

An uncertain amount of money must be found, but where is it expected to come from? We should examine two areas—I say to Bruce Crawford that I have no doubt that the Executive is considering this. Back in 1996, when Michael Forsyth first suggested that the SJNC be wound up in favour of a pay review body, part of the argument put forward—I know that the Liberal Democrats have given this strong consideration—was that, over the years, teachers in Scotland had fallen some 8 per cent behind their colleagues in England. That amount of money was offered and provided to local authorities, but it was not negotiated and passed on to teachers. One expects that money

could be found within local authority budgets.

Secondly, the Executive announced in a press release on 2 June that Scottish schools were to receive an additional £32 million. However, the annual expenditure report for the Executive, which was published in April, had assigned an extra £87 million for education. Can the minister tell us where the additional £55 million has gone? It would be a fair bet to suspect that that money might be used for McCrone. However, given the uncertainty and size of the costs, even an extra £55 million would make only a small dent in the funds needed.

We need to know whether the Executive can afford more than £500 million for the next five years and, if so, how. If local authorities and the Executive cannot afford the full cost of implementation, will local authorities be forced to increase council taxes to meet the cost? We need clarification of the exact costs of implementing the report. Only then can we begin to debate which reforms are our priorities and how we can fund them. That is the way in which we should take this matter forward. We should not ask the Government to show its hand first and therefore make all negotiations redundant.

09:52

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): Nicola Sturgeon likes to portray herself as the teachers' friend. I often share her attitude to these matters. I should declare that I am a member of the EIS. I have to remember to do that every time that I speak on education.

Brian Monteith is wrong. On this occasion, Nicola Sturgeon is not following the EIS line. As Peter Peacock pointed out, the EIS statement says that

“we believe that there is very little scope for debate on McCrone at this time.”

Nicola Sturgeon: Ian Jenkins is selectively quoting. That quotation from the EIS refers to the detail of the report. I accept that we should not pre-empt the negotiations on the detail, but is he aware of the resolution passed at the EIS AGM last week that calls on the Executive to clarify its position on the McCrone report and to give a commitment to fund its recommendations? That is exactly what the SNP is calling on the Executive to do. If Ian Jenkins accuses me of being inexperienced, is he also saying that the EIS and the teaching profession are inexperienced?

Ian Jenkins: I will again quote from the EIS briefing to MSPs:

“Time to consider is of particular importance for teachers, as the Report has arrived in staff rooms at a very busy time of the year, and . . . representative organisations . . . must follow a structured process of consideration.”

I will ask Nicola Sturgeon a question, although I do not know whether I am allowed to. She says that she is asking a series of easy questions. Does she believe that the report should be taken as a whole, down to every dot and comma, or should there be negotiations? If there are to be negotiations, we do not know what the funding will have to be. It is cuckoo to say, "We will tell you what the amount of money is, then we will have the negotiations." That is not how things work.

The millennium review was a total disaster because it was cobbled together behind the scenes by the SJNC, which has now been scrubbed but which the SNP wanted to keep. That report got all sorts of things totally wrong and people did not accept it. Despite the fact that it sought to change the structure of promotion in Scottish schools and many aspects of pay and conditions, it turned up on teachers' desks and they had to say yes or no to it in a fortnight.

This process is different. McCrone has considered the pay and conditions of teachers and has produced some very interesting ideas—many of which I, as a teacher, would have supported—but people are not yet sure what some of the proposals mean. We must have time to examine the report. Teachers must have a chance to digest it, discuss it properly and read it in full. They should not have to decide on it just before the busiest, exam time of the year. Nicola Sturgeon says that Sam Galbraith has had three weeks or six weeks, but six weeks is not a long time in which to deal with a big report that will change teachers' lives. Teachers need to discuss it and to decide whether it suits people who may be halfway through their careers.

The report represents a great way ahead for someone who is going into the profession now. I like the ideas about retirement packages, pensions, and sabbatical leave. Those ideas need to be digested. The money for the proposals on pensions would be a big consideration. I can imagine that a deal will be done on short-term issues such as pay and conditions, but pensions are a different ball game altogether and cannot be decided on now with a simple yes or no.

I have gone away off my speech, but I will get back to it.

The Presiding Officer: You are in your final 30 seconds.

Ian Jenkins: How long have I got? Gaun yersel, son. I have lost the place now.

Nicola Sturgeon is like one of those kids we used to get in school. There would be a nice wee girl in the classroom who would be a wee bit surly sometimes but was bright and intelligent. One would enjoy engaging in discussion with her and would eventually get a nice relationship going with

her, but she would not let other people have their chance. If she was given the main part in a play, when her wee bit was finished, she would say, "I'm not in it for another 10 pages—can we get on to that bit?" Other people need to have their chance.

Bruce Crawford: Will the member give way?

The Presiding Officer: Order. The member is over time.

Ian Jenkins: Nicola Sturgeon's time is not now. She can come back in the last scene when the back-stabbing goes on and everybody dies. Instead of doing "Macbeth", we could do "Monteith". There is a lot of back-stabbing in that—nasty letters and so on.

Fiona McLeod (West of Scotland) (SNP): Will the member give way?

Ian Jenkins: I leave members with this thought. This is not the time or place to debate the McCrone report.

The Presiding Officer: I must be frank with the chamber. The open debate has to finish in eight minutes and four members want to speak—members can make their own calculations. Either members will be very brief or some people will be disappointed.

09:58

Mr Kenneth Gibson (Glasgow) (SNP): I will try to get back to the subject of the debate.

I had hoped that by the time I was called to speak, the minister would have taken the chance that was afforded him by this SNP-sponsored debate to give his opinion on the findings of the McCrone committee, as Nicola Sturgeon suggested he should. I had hoped, at the very least, that the Executive would have outlined what resources had been set aside to fund the new settlement. I tell Peter Peacock, Brian Monteith & co that negotiation is not about just money, but includes such things as terms and conditions of service. Nevertheless, the minister will be pleased to have the support of Brian Monteith on this vital issue.

I had also hoped that, as an absolute bottom line, the Executive would use today's debate to give a clear and unequivocal commitment that, whatever conclusion was reached, the settlement would be funded by the Executive. I had hoped to hear a clear and unequivocal commitment that hard-pressed local authorities, which—as stated in Jack McConnell's response to parliamentary question S1W-5177—face a cut of £191 million in revenue support grant next year, would not have to pay for the settlement in increased council tax levels or cuts in jobs and services.

Unfortunately, I have been left disappointed, as I

am by so much of what the Executive has to say. I am disappointed because—I am sure I speak for the entire chamber when I say this—Scotland's teachers deserve, and have the right to expect, better.

The issue is not whether McCrone—or whatever variation of it ends up as the final settlement—should be paid for, but who will pay for it. I am disappointed because the Executive continues to play politics with the issue and to leave the key players in the process in the dark about its intentions. We should be able to expect a clear statement of how much money is available to fund the award, what local authorities will be expected to pay and what the knock-on consequences on council tax increases and/or job losses and service cuts in each local authority will be.

I remind the minister of COSLA's view, expressed by its president, Councillor Norman Murray, last week. He said:

"We have made it abundantly clear to ministers that local government budgets are already fully stretched and that the Government will have to meet its full share of the bill. So COSLA's message could not be starker. If McCrone's recommendations are not funded centrally, then they cannot be implemented."

I understand that the minister has stated that he wants to consult before making a pronouncement, but it seems odd that the third party in a triangular negotiation should be silent, while the other two parties are forthright in their opinions. One is left to surmise that the Executive's silence has more to do with the need to stall for time than the need to listen to public or professional opinion.

In the spirit of consensus and the new politics, let me offer the Executive a way out. Why does not the Executive use this opportunity to put on record the resources that are available? It would not have to give a commitment to release those resources; all I ask is that its position be made clear. How much money is on the table and how much will local authorities have to find from their resources? Telling us that would not bind the Executive. The minister could still hold his consultation. He would still be able to deliberate, cogitate and mull things over. He would not have made a commitment; he would have said, on record, only how much was in the kitty and how far the Executive was prepared to go. That would give the unions and local authority employers clear parameters in which to operate and would give the discussions an air of reality.

Mr Monteith: Will the member give way?

Mr Gibson: I have only a couple of minutes left.

The Deputy Presiding Officer (Mr George Reid): There is only one minute left.

Mr Gibson: As things stand, COSLA states that

unless resources to implement the McCrone recommendations are met in full by the Executive, the recommendations cannot be implemented at all. The unions say that unless there is money on the table, the process is dead. In the middle, we have the Executive saying nothing at all. The minister has his chance to end the speculation and tell us what resources are available. If there is £450 million in the kitty, let him say so. If there is £250 million, as has been reported, let him say so. If there is no money in the kitty and the minister expects local authorities to fund the recommendations, in the same way that they have had to fund every other award that Labour has sanctioned, let the minister say so.

The issue is one of resources, but it is also one of honesty. If the Executive cannot afford to fund McCrone, let it say so. If the Executive believes that it has a duty to fund only part, or none, of McCrone, let it say so. If it believes that local authority taxpayers should pay the bill, or that there should be efficiency savings in local authority services, we must be told. The Executive does not need to consult to have an opinion and it does not need three months to express a view. The Executive should clear the matter up today and let Scotland's teachers know where they stand.

New Labour and its Liberal Democrat colleagues are fond of saying that politics is about tough choices. Let me put a tough choice to them today: choose between telling the truth—being straight with the teachers and the people of Scotland—and hiding behind spin and delay. I invite the minister to make that tough choice when he closes for the Executive.

I support the motion.

10:03

Mrs Mary Mulligan (Linlithgow) (Lab): I am glad that I did not have to follow Ian Jenkins's contribution, because I would have sounded more sensible than usual.

I listened carefully to Nicola Sturgeon's opening statement, but I am still not sure what she thought she would achieve by having this debate. We could have predicted Peter Peacock's response, which was the only response he could possibly give in the circumstances. It does the Parliament no benefit to have a discussion in the vacuum in which we are having this discussion.

I agree that part of the EIS's statement said that we should hold back from commenting on McCrone at this stage, and I appreciate the reason for that suggestion. As soon as the McCrone report was published, there were headlines saying that teachers were to get huge pay increases or performance-related pay. If members have read

the report in any detail, they will know that those headlines were soundbites and were completely off—they do not reflect what the report says. We can do the report justice only by sitting down to consider it, negotiating with interested parties and considering seriously what the report is trying to achieve.

I am surprised that, so far, Nicola Sturgeon has not taken the opportunity to raise the McCrone report at the Education, Culture and Sport Committee. I appreciate that the agendas have been fairly busy recently, and that that would have been rather difficult, but I hope that the committee will have a role to play in considering the McCrone report. McCrone has signalled several areas that need further work and investigation; one such area is work load. Committee members have spoken regularly to teachers throughout the country, who have told us that work load is an important issue. Even yesterday, during our evidence session on the special educational needs inquiry, teachers were saying that they needed more time to bring children with special educational needs into the class, to give them a quality education.

McCrone flagged up work load as one of the issues that need to be considered, and it might have been more productive to consider that than to have this debate today.

Fiona McLeod: Given the evidence that the committee has heard about the burden on teachers, does Mary Mulligan accept that it would be perfectly reasonable for the Executive to signal its intentions by accepting the parts of the McCrone report that made those points and acknowledging that that will have resource implications?

Mrs Mulligan: No. I do not think that it would be helpful for the Executive to make any such statements at this stage. I welcome the McCrone report as a basis for examining the issues that are important to the teaching profession, parents and students. We should use that as a starting point, but at this stage, we should not make statements on what we think is right and wrong.

Teachers tell us that they feel undervalued. McCrone provides a basis to give teachers back recognition of their professionalism. It is not just about finance. I am not naive enough to think that we can discuss the report without realising that there are financial implications. However, I do not think that teachers want the debate to be reduced to cash and nothing else—there are more important issues. Teachers do not want to become the meat in the political sandwich.

Robin Harper (Lothians) (Green) *rose*—

Mrs Mulligan: I have been asked to wind up.

The minutiae of negotiations cannot take place

in the chamber and they should not take place in the committee. We must give time to the on-going discussions. We can do justice to teachers, parents and students only by allowing the debate enough time.

Des McNulty (Clydebank and Milngavie) (Lab): On a point of order. This morning, every speaker has been either a front-bench spokesperson or a committee convener. That is an abuse of the chamber. The organisation of this business—a one-hour debate in which no back bencher is allowed to speak—is quite inappropriate. I hope, Presiding Officer, that that will be taken back to the Parliamentary Bureau. It is plainly an abuse of the chamber.

The Deputy Presiding Officer: I take that point, and I can confirm that I will take the matter to the bureau. I have to say that the SNP gave up 15 minutes of its time to accommodate the statement later this morning. We now move to winding-up speeches.

10:08

Donald Gorrie (Central Scotland) (LD): It is quite right for the SNP to raise this issue—that is what Opposition parties are for—and to press the Executive. The Executive is correct in saying that there should be more consultation and that it needs to form a measured response.

I will focus on some of the non-financial aspects. I am one of those people who consistently cry out for more resources for education and other public services, but there is an important non-financial aspect to the debate—the morale of teachers, and their work load. The Scottish Liberal Democrats went into the election calling for an overall inquiry into Scottish education. That was not included in the coalition agreement, but McCrone addressed such issues and I hope that the Executive will pursue them in order to keep the good will of the teachers. That does not mean surrendering to every demand of the teachers' unions, but keeping the teachers on board and improving their morale, which at present is extremely bad.

In particular, the issue of pupils with behavioural difficulties must be dealt with more head-on. There is a great reluctance to admit that there is such a problem, because teachers and head teachers feel that they are admitting failure if they do so. There are problems in many places, and they must be tackled more intelligently.

There is the further issue of teachers contributing to out-of-school activities and the more general point about increasing the education of children outside school, where, with all due respect to people who have tried teaching, most good education takes place. We need to consider questions about the management of out-of-school

clubs and activities—for example, whether they are run by teachers or by other people in association with teachers.

I welcomed especially the McCrone report's recommendation for a bureaucracy audit. Having previously volunteered to be a bumf tsar, I am volunteering to take part in such an important exercise. Teachers find themselves submerged by the many well-intentioned initiatives and other pieces of paper at national, council and school level, and we need to address that problem to allow teachers to get on with what they are good at—teaching.

10:11

Mr Keith Harding (Mid Scotland and Fife) (Con): I notice the importance that Andrew Wilson attaches to this debate—he is reading *The Daily Telegraph*.

Andrew Wilson (Central Scotland) (SNP): It is *The Sunday Telegraph*.

Mr Harding: You will agree that the weather is somewhat humid and that there are rather more nats around than usual. As a result, I have decided to designate today bash-a-nat day—and it is Nicola Sturgeon's turn. I am by nature a tolerant and patient person, but your recent posturing and statements have bored me to tears. You could bore for Britain without competition; however, you would no doubt prefer to do so for Scotland.

Yesterday, you accused the Scottish Conservatives of not contributing to the debate on section 2A. However, apart from Michael McMahon, only the Conservatives came up with amendments to that section of the Ethical Standards in Public Life etc (Scotland) Bill and chose to debate the question in Parliament.

Conversely, you did not offer any amendments and your policy was dictated by opinion polls, not conviction. The carping continues in today's debate.

The Deputy Presiding Officer: You should speak to the motion, Mr Harding.

Mr Harding: The McCrone report is complex and comprehensive, and requires careful consideration and consultation, as we know that resources are not finite. Your motion is premature, as it does not give the Executive time to deliberate and suggest proposals for the Parliament's consideration. Like all SNP motions, it is all about political point-scoring and the ultimate aim of destroying the union. The report presents an opportunity to address the deficiencies in education, and this is not the time to allow rampant political opportunism. Although your party always promises the earth, it cannot produce the resources. Your expenditure plans surpass even

the Executive's recycled announcements, which is no mean achievement. However, that is understandable, because if we believe what we hear, your party has difficulties in managing its own meagre resources.

I support the amendment.

Andrew Wilson: On a point of order, Presiding Officer. Given that Mr Harding is addressing the chair, it strikes me that the chair is being unnecessarily abused by his language.

The Deputy Presiding Officer: Mr Harding?

Mr Harding: I have finished my speech, so it is difficult for me to respond—but if you think that that was abuse, I will give you some more later on.

10:14

Peter Peacock: I made it clear earlier that we would not be deflected from our commitment to take the McCrone report seriously. After all, the Executive established the committee, despite SNP opposition. We did not establish the committee so that we could then completely ignore its recommendations; we did so to provide the basis for discussions with key interests to secure our objective of a well-motivated teaching profession.

The ultimate aim is to deliver higher standards and better education for our children, and we have confirmed that we intend to consult interested parties before we take any steps towards implementation. We will do so through a series of consultation meetings over the summer with groups that represent employers, teachers and head teachers, and others. That is what we have said we will do and that is what we will do; I have heard nothing from the SNP today that would make me change my mind.

Ian Jenkins's helpful and entertaining speech, based on his experience in the teaching profession, struck a balanced note on how we should approach such matters. Mary Mulligan's mature approach did likewise.

We are determined to use the McCrone committee report for the purpose of securing answers to the difficult questions that must be answered if we are to have the teaching profession that our country needs. We will not use the McCrone report just as a political weapon. We will not use teachers—in Mary Mulligan's words—as the meat in a political sandwich. I urge Parliament to support the Executive amendment.

10:15

Fiona McLeod (West of Scotland) (SNP): I will take the debate back to its serious intent. The McCrone committee report was long awaited, not just by teachers but by parents and pupils. It was

eagerly awaited because of the uncertainty and rancour that had arisen over the millennium review.

Maureen Macmillan (Highlands and Islands) (Lab): When this matter was debated before and I said that the McCrone committee was the chance of a lifetime, Fiona McLeod condemned that statement. Does she now admit that the McCrone committee was worth while?

Fiona McLeod: We said that the McCrone committee was a delaying tactic. That is also true of the Government's response to the report, which is a tactic to delay having to resolve the uncertainty at the heart of the teaching profession. McCrone identified that when he said that teaching is a profession under pressure and that teachers feel misunderstood and undervalued. My party and I think it right and proper to expect a response from the Government to the McCrone report, to reassure the teaching profession that it intends to take matters forward positively.

Robin Harper: Would Fiona McLeod agree that, as the EIS has announced categorically that it will not release publicly any of its negotiating positions over the summer, it is rather strange to ask the Government to release its position before that?

Fiona McLeod: I direct Robin Harper's attention to the resolution of the annual general meeting of the EIS that called on the Scottish Executive to

"clarify its attitude to the McCrone report and to confirm that it will guarantee to provide the resources necessary to fund, in full, the outcome of the negotiations which will follow the publication of the McCrone Report."

That is a clear statement. The position of a union in negotiations is different from that of the Government. We are looking for a Government response—not a detailed one—that recognises the import of the McCrone report. We want to know whether the Government accepts the conclusions that McCrone reached.

It has become obvious that the forthcoming consultation is just another delaying tactic. One would presume that a consultation process has a couple of purposes: to inform the Government of the views of the profession and the public; and to influence the Government's decisions. However, that does not preclude the Government from expressing an opinion on the report at this point.

We know that the Government has opinions on many of the issues that were raised by McCrone. In its manifesto, Labour stated that it would free teachers to teach. Paragraph 6.19 of the McCrone report calls for a bureaucracy audit and, in paragraph 3.45, there is a call for more classroom assistants to

"enable teachers to concentrate on their teaching duties."

By not commenting on the McCrone report, is

the Government saying that it is going back on its manifesto commitment to give teachers time to teach? That is a simple question and I would like an answer.

Dr Richard Simpson (Ochil) (Lab): I have two questions. First, how does a lack of comment imply a change in policy? Secondly, will Fiona McLeod state how much the SNP would allocate to implementing the McCrone recommendations? We are keeping a running total of what the SNP plans to spend.

Fiona McLeod: I have two answers for Dr Simpson. The Labour party can back up its manifesto commitment to free the teachers to teach, as McCrone recommends. At the same time, as the Labour party is the party of government, it must fund the committee that it set up. We are the Opposition, and we will cost it in our manifesto when the time comes.

We are discussing finances, so let us turn to paragraph 1.11 of the report. McCrone states:

"One specific issue which has been raised a number times with the Committee is the question how any changes to pay, promotion structures and conditions of service it may recommend will be financed."

The quotations on the financial aspects go on and on. We have heard them today, and it is a major issue. Malcolm McIvor of the EIS said that if the process was to go anywhere, there would have to be money on the table and that if there was no funding, the process would, in effect, be dead. David Eaglesham of the Scottish Secondary Teachers Association said that there would be no point in discussing the matter any further if the Executive did not agree to fund the recommendations and that if the price—which is huge—were not to be met, the process would have been a waste of time.

I do not think that the McCrone report was a waste of time, and nor does the SNP, but if the Government does not tell us whether it thinks that the report was a waste of time, and whether it is prepared to provide the funds to ensure that the recommendations are met, the whole thing will have been a waste of time. I hope that this morning's debate has not been a waste of time, but has allowed the SNP—as the Opposition party—to raise the genuine concerns of the profession and the parents. I hope that the Government will respond to those genuine concerns, and I urge members to support the SNP motion.

The Deputy Presiding Officer: We are now about four or five minutes ahead of schedule. I shall add that time on to the next debate.

Petrol and Diesel Prices

The Deputy Presiding Officer (Mr George Reid): The next item of business is a debate on motion S1M-1026, in the name of Kenny MacAskill, on petrol and diesel prices, and amendments to that motion.

10:22

Mr Kenny MacAskill (Lothians) (SNP): In moving this motion, I am minded of Labour's campaign song in recent elections: "Things Can Only Get Better". Well, well, well. The singer remains the same, but the words of the song have changed. Now, it is "Petrol Can Only Get Dearer" or, "The Price of Diesel Can Only Get Higher". When people ask me, "What's the price of voting Labour?" I say, "£4 a gallon."

Maureen Macmillan (Highlands and Islands) (Lab): Will Kenny MacAskill give way?

Mr MacAskill: Maureen Macmillan will have to wait until I have got started.

What has happened to the price of fuel under the Labour Administration? It has gone up, up, up. In 1997, the Tory foot was no longer on the fuel duty accelerator and the iron lady was replaced in the driving seat by the iron chancellor. Not only did he continue to keep his foot on the accelerator—he pressed harder. Labour's turbo-charged taxes have sent petrol and diesel prices rocketing, while fuel-injecting the chancellor's burgeoning war chest.

Last autumn, concerned that petrol prices had gone up by 25 per cent, I asked the minister in committee what representations she had made to the chancellor about the escalating cost of fuel. She replied that he had not asked her. Since then, they appear to have discussed matters on several occasions. Mea culpa—why did I ever ask? What did she say to him? The situation is worse now than it was then. Petrol has now gone up by more than 40 per cent and the price of voting Labour in May 2001 will be £5 a gallon.

Maureen Macmillan: The SNP's budget for independence includes a fuel duty escalator of 6 per cent until 2003. What will the SNP's changes in tax plans be to take account of that?

Mr MacAskill: We made it quite clear during the vote at Westminster, when we voted against fuel tax rises—as did the Deputy First Minister—and that is what put matters on the record. The Labour Government put its foot on the accelerator and has continued to press it. We, to our credit, have said no to the fuel tax rises. Perhaps the Liberal Democrats can tell us why the Deputy First Minister argues one way down in London but

votes a different way up here.

People know that the chancellor takes 80p in every £1 spent on fuel, but let us look at it another way. If fuel were an ordinary commodity, what would the retail mark-up be? What would be a fair profit in the circumstances? The chancellor's mark-up on a litre of petrol is not 3 per cent. It is not even 33 per cent. It is a scandalous and outrageous 333 per cent. If we consider other commodities, only cigarettes are marked up higher. At least in that case there is a health argument and an argument about costs to the national health service. Even alcohol comes nowhere close: the chancellor makes 62 per cent on wine and 40 per cent on beer.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): Will the member give way?

Mr MacAskill: Not at the moment.

What about a comparable fuel? What about the Government's mark-up on electricity? That stands at 5 per cent. This is the ultimate usury—Labour is preparing for an election in which it proposes to offer unseemly tax cuts to the rich while extorting money from those who have no alternative but to buy fuel but who have few resources with which to pay for it. What other tax is at that level? Not basic rate tax, not higher rate tax and not even corporation tax. This is not about targeting congestion, nor is it about promoting transport alternatives; it is about raising £2.25 billion for a war chest. This is about fleecing us through fuel.

Why is fuel important? Its price affects every facet of our life. It is not only at the pumps that we pay; price increases affect the cost of every journey, personal or commercial. It is not only the end cost of products that we have to consider, but the wrecking cost on our road haulage industry.

Mr Murray Tosh (South of Scotland) (Con): What, in Kenny MacAskill's motion, will set all of that right? How much money will he spend on the sole initiative that he has identified? Where, from the available resources, will he find the resources for that?

Mr MacAskill: If Murray Tosh will sit and wait, all will be made clear.

I mentioned the wrecking cost on our road haulage industry. This Parliament has had debates on other industries in crisis—from shipbuilding to the textile industry; from fishing to farming. Let us be clear: the Scottish road haulage industry is in similar trouble. There may be environmental Luddites who think that that is beneficial, but the cost of fuel has not reduced the number of journeys by a truck or lorry; it has simply reduced the number of journeys by a Scottish truck or lorry.

Our hauliers are trying to compete on an open

highway when the chancellor is weighing them down with an extra load—higher fuel costs and higher excise duties. They are losing out to foreign competition, which is fuelling up on the continent and back-loading on the journey back. Fuel accounts for about 70 per cent of a road haulier's costs. In Scotland, a haulier will pay more than double the fuel cost of his continental competitor.

Jobs are at stake and an industry is threatened. But there is more. I have been pursuing the hidden costs that have been imposed by Labour's fuel tax and I have discovered some disturbing figures. For example, in rural—and, indeed, in urban—Scotland, transport to school is not a luxury but a necessity. I am not talking about the cost of parents embarking on the morning school run; I am talking about the massive cost to local authorities of carrying out their statutory duties. When I asked the Minister for Children and Education about the cost of running school buses, I was told that in 1997-98 it cost Scottish local authorities nigh on £80 million.

Some of my colleagues will detail the costs to individual local authorities, but I would like to concentrate on the overall national picture. It is a picture of money flowing south from the oil off our shores, of money flowing south from the pumps on our forecourts, and of a chancellor awash with our money. Meanwhile, here in Scotland, council taxes go up and the quality of council services goes down. This is the only country in the world to find oil and find itself getting poorer. All across the council spectrum, irrespective of the political colours of the council, the price is being paid in the increased costs of public services.

Let us consider the emergency services. We cannot do without them. We heap praise upon them for their selfless dedication, yet those essential services are cash-strapped—in contrast to a chancellor who is cash-rich. A paramedic says to me, "What is the price of voting Labour?" I say, "It's £3.21 million a year to put petrol in ambulances." A policeman says to me, "What is the price of voting Labour?" I say, "It's over £5 million a year, simply to fuel the vehicles."

Mr McMahon rose—

Lewis Macdonald (Aberdeen Central) (Lab) rose—

Mr MacAskill: Not at the moment. A fireman says to me, "What is the price of voting Labour?" I say, "It's £18 million in transport costs since Labour came to power."

Lewis Macdonald: Is Kenny MacAskill offering free fuel for fire and ambulances services? If so, is that another spending commitment to add to the SNP's large list?

Mr MacAskill: As I said to Murray Tosh, Mr

Macdonald should wait and he will be told.

What can be done? Two schemes deserve to be considered. First, a fuel duty rebate scheme is within the competence of this Parliament. Is it not within the wit and competence of the Executive to consider extending the fuel duty rebate scheme to school buses and other services? Has that been investigated or costed? At yesterday's meeting of the Transport and the Environment Committee, I asked the Minister for Transport and the Environment whether she had considered or costed that option. She said no. That is unacceptable.

Secondly, cheap fuel is available to certain categories and classes of vehicle, which may answer Mr Macdonald's question. The Finance Act 1995 allows the following classes of vehicle to use rebated fuel: tractors, diggers, mobile cranes, road rollers, gritters, snowploughs and mowing machines. Worthy machines and a testament to man's mechanical ingenuity—all have played a part in the construction of the civilised world. Seriously, I would not want to stop rebated fuel for gritters and snowploughs or any other of those worthy vehicles, but what is the logic of giving rebated fuel to those necessary machines but not to police cars, fire engines or ambulances?

Lewis Macdonald: Mr MacAskill criticises the minister for uncostered promises. What is the costing of that new pledge to provide rebated fuel for the emergency services?

Mr MacAskill: I do not know what papers Mr Macdonald reads, but I read *The Independent*.

"Prescott gets £140 bn boost for transport".

Mr Macdonald may see it differently, but it seems to me that petrol and transport are related. Is it not possible that £140 billion might mean it is possible to say that police cars, fire engines and ambulances are as worthy of rebated fuel as mowers, diggers and tractors? Can he tell me why they are not?

The £140 billion will be spent on

"a £500 million extension for Manchester's tramlines, a new £180 million system in Nottingham and extensions to the Docklands Light Railway in London and the similar Tyne and Wear rail network".

Moreover,

"The Government will give priority to proposals that . . . will blitz congestion 'hot spots' such as the M6 and M25 motorways."

What about the areas where we have problems? What about rural Scotland's problems rather than just the M25 urban corridor?

Maureen Macmillan: Is the SNP policy on rural petrol prices—it is, according to Mr MacAskill in the *John o' Groat Journal and Weekly Advertiser*

and Duncan Hamilton speaking in Oban—that petrol prices in urban areas should be raised to the level of petrol prices in rural areas?

Mr MacAskill: I do not know whether Maureen Macmillan is reading that from joined-up writing or whatever, but that is not the position. I believe there should be parity of prices. I do not see why someone who lives in rural Scotland should be discriminated against. I bet if the minister's Mondeo was filled up in Stornoway rather than in Edinburgh, we would see the Government doing something about it quickly.

To return to those worthy machines—is a tractor or a mower of greater social worth than a panda car or Medic 1? Apparently they are. Why do we not tell the chancellor that that is nonsensical and must cease? Let him provide from his ill-gotten gains the resources for our essential services. The price is being paid by ordinary Scots with no alternative to using fuel.

Yesterday, I actually received an answer to a written question. The question was:

“To ask the Scottish Executive what representations it has made to the Chancellor of the Exchequer regarding the classes of vehicles which are entitled to rebated fuel in Scotland.”

That extends Mr Macdonald's question. What are we going to do about it? His colleague, Sarah Boyack, who is not here today, gave me an illuminating answer:

“The Executive keeps in regular contact with Treasury on a range of reserved issues which affect Scottish interests.”

Blow me—that gave me a good explanation of why a mower gets the rebate but Medic 1 does not.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): There is a fundamental flaw in Kenny MacAskill's argument, although I agree with many of his points.

Given that 6 per cent of the UK's fuel duty is paid in Scotland and that Scotland receives 10 per cent of Government funding, if fuel duty for public service vehicles was abolished across the UK, we would be 4 per cent worse off and our public services would suffer. Has the SNP addressed that fundamental flaw?

Mr MacAskill: Like my colleagues, I do not understand the basis of Mr Rumbles's nonsensical question. [*Laughter.*] The fact is that the extension of rebated fuel—[*Interruption.*] Let us be clear: the 3.1 per cent—[*Interruption.*]

The Deputy Presiding Officer: Order.

Mr MacAskill: We are talking about the same fuel rebate that is given to ferry services and diesel trains, but which the Government chooses not to give to road hauliers. Why can that rebate

be given to the mowing machine and the road roller, but not to Medic 1 or the police car? Why can it be given to the diesel train and the ferry, but not to the road haulier who carries the same goods that may be carried on the train or ferry? The Executive should give a better answer to those questions than that it is holding regular discussions with the Treasury on matters of interest.

My argument applies not only to someone who lives in the Highlands and Islands, but to many a shift worker, such as nurses or policemen, in the central belt. The price is paid not by environmentally unfriendly truckers but by those who come from Scotland. It is paid not from Westminster bounty but by cuts in essential services. It is nonsense that 25 years after North sea oil started to flow, and when Scotland is the major oil producer in the European Union, we have the highest petrol prices in Europe if not the developed world. Action must be taken and the Executive must stand up for Scotland. London's great fuel robbery must cease.

We have a proposed Trident campaign. First, we must end the disparity of fuel prices in rural Scotland—a litre of petrol is a litre, wherever it is bought.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): Will the member give way?

Mr MacAskill: No. I am winding up.

Why is it that when the Government worries about Manchester United being taken over by Rupert Murdoch, the Office of Fair Trading is able to report in a matter of weeks, if not days, but when there is a crisis in rural Scotland about the price people pay at the pumps, we wait for nigh on a year and a half? The Executive can take action—it could say that it will legislate unless that disparity is ended.

Secondly, there must be immediate action on emergency and essential services. We must let the chancellor know that—rather than simply have discussions with the Treasury about mutual interests. We must tell him that it is absurd that we are not providing those essential and emergency services with rebated fuel.

Thirdly, we must freeze fuel duty until we have a level playing field with our European competitors.

I move,

That the Parliament notes that since 1997 petrol and diesel prices have risen in excess of 25%; further notes that Scottish public services are being forced to operate under ever increasing financial constraints; recognises that the increased cost of fuel is a burden which must be carried not just by motorists, but which falls on all Scottish citizens through rising fuel costs to the public sector; believes that it is unacceptable that money should be diverted from over-stretched Scottish public service budgets to the Treasury in

Westminster, and therefore calls upon the Scottish Executive to consider extending the fuel duty rebate and to examine the possibility of extending the availability of rebated fuel across Scotland's public services in order to ensure that money spent on Scottish services is spent here rather than being returned to London.

10:38

The Deputy Minister for Highlands and Islands and Gaelic (Mr Alasdair Morrison): I listened carefully to Mr MacAskill's speech. I suspect that I would have heard it equally clearly had I not been in the chamber but in my constituency. He is a spokesman who does not allow facts to get in the way of a good rant.

I am grateful to the SNP for the choice of topic for today's debate, for two reasons. First, it gives me an opportunity to set out many of the positive measures the Executive has been taking to address the transport needs of Scotland's rural communities. Secondly, it allows me to highlight the hollowness and naked opportunism of the SNP's position, as revealed again by Kenny MacAskill this morning.

All members of the Parliament who represent rural constituencies recognise the very real concerns of many rural communities about high fuel prices and poor public transport services. Scottish rural motorists travel longer distances, spend a higher share of their income on motoring and have fewer alternative forms of transport available to them. The situation is exacerbated by the substantial differential between prices in Scotland's remoter rural areas and elsewhere. Prices in Sutherland, the northern isles and the western isles are, on average, some 7p to 9p a litre higher than prices in the central belt. As I know from my constituency, there are many places where the differential is even higher.

The crucial point is that the Executive is working hard to do something about the problems—working hard to make a difference on the ground in the affected communities. The Scottish nationalist party's agenda is different. Its interest is in soundbites and media headlines. Its tactic is clear, as has been ably demonstrated today: shout loudly enough and, it hopes, no one will notice that its policies are all noise and no substance. What is the reality of its position? Fuel duty is a sizable source of revenue. It raised some £24 billion last year. Despite what Kenny MacAskill has said at every opportunity, that revenue has not been disappearing into some mysterious black hole down in the accursed city of London. It is funding schools, hospitals, local government, environmental protection, and yes, transport, Mr MacAskill; Scottish taxes funding Scottish schools and hospitals.

The SNP's so-called budget for independence—

there is a laugh—that was produced in the run-up to the election included the full 6 per cent fuel duty escalator up to 2003-04. The SNP would have been quite happy to spend the proceeds of the fuel duty escalator if elected. In the meantime, in his budget this year, it was Gordon Brown who took his foot off the fuel duty escalator with the lowest increase in duty plus VAT in 11 years. He extended the £100 low vehicle excise duty for cars to 1200cc. He reduced the VED bill for Scotland's lorries by over £4 million per year. Taking his last two budgets together, he has cut some £40 million from Scottish VED bills.

The Executive will continue to represent the interests of Scotland's rural communities in Westminster and Whitehall. By working patiently and constructively with the UK Government, we will ensure that a balance is struck between the interests of Scotland's fragile rural communities, the environment and our wider spending policies.

That is unglamorous, workaday stuff. Our opponents in Parliament would prefer the sound and fury of fisticuffs between this place and Westminster. That might make for sensational headlines, but it would not serve Scotland's interests. I am sorry to disappoint the Scottish nationalist party, but the Executive is not playing ball. [MEMBERS: "National."] The SNP motion calls on the Executive to consider extending the availability of rebated fuel across Scotland's public services. Any extension of fuel duty rebate would, however, fall to the Scottish Executive to pick up, not the Treasury. Perhaps Kenny MacAskill can identify which Scottish public services he would cut to pay for his uncosted extravagance. I am sure that everyone in this chamber—and in Scotland—would be interested in what he has to say.

Mr MacAskill: Was John Prescott lying—or was *The Independent* misquoting him—when he said that £140 billion was to be spent over the next 10 years? If that is not a lie, or a misrepresentation by *The Independent*, we will get our share. Can we not spend that share as we wish, to provide the assistance that we need in those areas?

Mr Morrison: Kenny MacAskill quotes liberally from the press. I wonder whether the press is lying when it tells us that the Scottish nationalist party's finances are non-existent.

Members: National.

The Deputy Presiding Officer: Order.

Mr Kenneth Gibson (Glasgow) (SNP): On a point of order, Presiding Officer. Can the member of the labourist party accurately mention the name of the party that we represent?

Mr Morrison: I would be obliged if the Presiding Officer could help me. I am not aware of making

an error in naming the Scottish nationalist party.

The Deputy Presiding Officer: The name of the party is the Scottish National Party, not nationalist party.

Mr Morrison: I am grateful for your guidance. I appreciate, of course, that the SNP is continually diluting its commitment to independence and nationalism, but I did not realise that its members objected to being called nationalists.

The Executive, unlike the official opportunists, must operate in the real world. As Sarah Boyack has made clear, we are taking enabling powers in the Transport (Scotland) Bill to allow the Executive to extend the classes of bus service for which fuel duty rebate might be paid. We then intend to consider, in the light of the Commission for Integrated Transport's review of subsidies to the bus industry in England and Wales and competing calls on our budgets, whether to extend the fuel duty rebate to community transport and school bus services in Scotland.

We will not rest there. In the programme for government we made a commitment

"to support the variety of transport links which provide a lifeline to remote and fragile communities"

and

"to support the essential role of the car in rural community life".

Sarah Boyack is working with members of the ministerial committee for rural development to deliver on that commitment.

"Rural Scotland: A New Approach", which was published last month, marks the beginning of a new approach to rural Scotland which will acknowledge its strengths and weaknesses, understand its distinctiveness and tackle its problems in ways that are attuned to rural circumstances.

We recognise the need to act now, with energy and purpose. That is why we have established a range of programmes to address the diverse transport needs of rural areas. The Executive is investing in new transport services across rural Scotland. The rural transport fund is providing more than £14.5 million in new investment over the three years from 1998-99.

The Executive is also supporting lifeline fuel supplies for rural motorists in Scotland's remotest areas. That is a very important area of expenditure and it is an important investment. So far, 13 petrol stations have been approved for grant funding.

Andrew Wilson (Central Scotland) (SNP): Ooh!

Mr Morrison: The Opposition may hoot, but that is important investment in areas such as

Ardnamurchan. If the money were not spent, people living there would have to travel miles upon miles to get their fuel. That important scheme has now been extended to assist with the installation of liquid petroleum gas equipment. The Executive is investing in new transport infrastructure to help local communities address local problems. The first and second rounds of the public transport fund have provided support for a range of projects across rural Scotland. Last November, we gave the go-ahead to a number of trunk routes of particular benefit to rural areas.

My friend, Fergus Ewing, will recall the £10 million investment for widening the A830 from Arisaig to Kinsadel—the campaign for which lasted 30 years. I could go on. I could cite example after example—the Executive's support for lifeline ferry and air services is one—yet Mr MacAskill asks us if we are spending money here in Scotland. It is ludicrous—in a ludicrous Opposition debate.

Last year, our support for lifeline ferry and air services was at a record level. It included £12.7 million for Highlands and Islands Airports Ltd. That is money that Kenny MacAskill would divert from subsidy. His ludicrous, harebrained scheme would result in the closure of some airports in the Highlands and Islands.

Extra money has gone to rural Scotland as a result of the budget, including £2 million for resurfacing the runway at Wick and £3 million for Stornoway and Kirkwall airports. That is action on the ground. It is investment in the vital links on which Scotland's rural communities depend. It means a greater choice of transport where possible and help for people who are dependent on their cars and who have no choice.

That is what the Executive is delivering—not bluster, hot air and soundbites, which is all the SNP seems able to offer Scotland's rural communities.

I move amendment S1M-1026.2, to leave out from first "notes" to end and insert:

"recognises concern about the impact of fuel prices especially in rural, highland and islands areas where public transport alternatives are more difficult to provide; recognises that fuel duty is a reserved matter; welcomes the investigation by the Enterprise and Lifelong Learning Committee into the bulk purchase of fuel for remote areas; welcomes the progress made by the Scottish Executive in implementing a comprehensive integrated transport strategy and investing in public transport projects across Scotland; in particular notes support for rural public transport services and the network for petrol stations in rural Scotland, as well as measures to sustain lifeline air and ferry links, including the Highlands and Islands; and further notes that the current budget for the fuel duty rebate would have no impact on Treasury receipts but would be a cost to the current budget for Scottish public services."

10:47

Mr Murray Tosh (South of Scotland) (Con): At some risk to my political credibility, I recently said in the Parliament that it is sometimes possible, when listening to Kenny MacAskill, to recognise something in there on which he is right. There is something in what he has said this morning that is right: the price of petrol and diesel is artificial. It is affected primarily by political decisions and by tax levels. He was also right when he pointed out that, in real terms, fuel prices have escalated sharply.

When Labour came to power in 1997, fuel prices in this country were broadly comparable with those in other European countries. Today, they are significantly higher, which presents us with real difficulties: it creates problems for our freight haulage industry, problems with revenue loss on the Ireland-Northern Ireland border, difficulties in our industrial competitiveness, difficulties for our tourism industry and real difficulties for people in rural areas. Those are important, sensitive issues that this Parliament is right to discuss. They are important to the people of Scotland and I believe that this Parliament has a representational role to play on them in relation to the Westminster Government.

We ought to have a sensible debate. We should reflect on what the Enterprise and Lifelong Learning Committee has been doing to try to get at the root of the rural-urban disparity and to identify solutions that the industry—or the Scottish Executive or, more probably, the Westminster Government—can tackle. Those are appropriate steps to take and avenues down which we should proceed. Is not it a terrible pity that the opportunity to debate those issues has been callously disregarded and thrown away this morning?

Did Kenny MacAskill's speech address any of those issues? Does his motion address any substantive proposal to remedy the overall problem? His preamble was perfectly acceptable, but what measures and costs did he propose? He set out the problem and then ranted. He ranted in his press release, he ranted on the radio this morning and he ranted in the chamber. He made some strong points, but nowhere in his speech was there anything that represented a comprehensive solution to the transport problems of rural Scotland.

Andrew Wilson: Will Murray Tosh give way?

Mr Tosh: Not at the moment.

Kenny MacAskill proposed fuel duty rebates for the emergency services. That is an option that it might be worth examining and discussing when we look at the bigger picture, but what did he say about the impact on rural motorists? Nothing. What did he say about private sector costs?

Tricia Marwick (Mid Scotland and Fife) (SNP): Did Murray Tosh listen to the speech?

Mr Tosh: I am referring to the motion, which ignores those things. Kenny MacAskill threw freight into his speech, but it is not mentioned in the motion. He will say outside the chamber that he would subsidise freight, but that is not mentioned in the motion. The motion is all about public sector costs. Mr MacAskill does not spell out how much his plans would cost and where he would spend the money, although he was challenged during his speech to do so. He said, "I'll tell you later." In the words of the song—"I'm still waiting." He did not tell us how much money it would cost and he did not tell us where he would make the cuts to fund his plans.

Kenny MacAskill said that more money is coming from Mr Prescott. We believe that, but Kenny has already made it clear in parliamentary debates that he would spend it on road construction. A fortnight ago, when Parliament met in Glasgow, he agreed with me when I said that we could spend some of the money on investment in railways. How much money is coming and how many times is Kenny MacAskill going to spend it?

Mr MacAskill: Does Murray Tosh accept that if Scotland got its pro rata share of £140 billion over 10 years, the projects that I mentioned could be delivered in that time scale? Does he also accept that if that money were available, we could address the crisis in our rural emergency and other essential services, such as road haulage? Does he accept that the level of funding that is being talked about by John Prescott—and on which the minister would not comment—would provide for the delivery of that aim?

Mr Tosh: Once we know how much money is available for transport, I intend to be part of the debate about how we allocate it. I am not opposed in principle to the idea that the SNP has proposed this morning, or to other transport priorities, but we must examine transport expenditure and the problems in rural areas in the round. To propose a slice of a possible section of a possible solution to the problem is merely an apology for a motion. The motion is merely an opportunity for Mr MacAskill to rant. It does not represent a substantive contribution to resolution of the difficulties.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Murray Tosh seems to have forgotten that Kenny MacAskill plainly stated at the end of his speech that we must end the disparity that is associated with rural petrol prices in Scotland. Does Murray Tosh accept that the fuel duty escalator is a policy that was initiated by the Tories? Is Murray Tosh's case now *je ne regrette rien*?

Mr Tosh: If Kenny MacAskill had lodged a motion that sought support in principle and that included some practical suggestions on how to equalise rural and urban fuel prices, I would have been happy to say, "Good idea, Kenny. What a smashing idea for a debate. I'll vote for your motion." He did not do that. We are not here to talk about what he might throw away when he gets excited in his speeches; we are here to debate his motion and to vote on it at the end of the day. The motion deals only with a segment of the issue—it is a pitiful motion.

Kenny MacAskill is trailed as a great figure in the media. He is an impressive performer and the media love him. He roars and he bawls and he tears into the minister, who is depicted regularly as a poor wee trampled victim of Kenny's road rage. Kenny is the subject of awe. Kenny will sort out the minister. Do members know what he really is? He is not a source of awe or wonder. He is just a big loud voice—he is the wizard of Oz. I was going to say that the Minister for Transport and the Environment had come this morning in her little ruby slippers, but she has sent Alasdair Morrison in her stead. We have pulled the curtain aside to see what is behind it. What is there? There are a few ragbags of ideas. There is no message, no solution and there is not even a proper appraisal of the difficulties.

The motion is just a pitch for cheap and easy votes, which is—astonishingly—backed up by an attack on the Labour party, from which the SNP learned all about unseemly bribes. What is Kenny MacAskill's speech but a lot of uncosted unspecified, unseemly bribes? He has not even spelt out where we would get the money from, how it would be paid, how it would be passed on or who would benefit. Would councils benefit? Would the consumer benefit? Would the kids on school buses benefit? Will their fares be cut? We do not even know why he wants to do it.

Andrew Wilson: I suggest that it might be appropriate to call for a medic soon. Will Murray Tosh reflect directly on the motion and the two suggestions that relate most obviously to the comments that he has made in his speech? Murray says that there is a role for this Parliament to make representations to London. Kenny MacAskill has asked for an extension of rebated fuel, a matter reserved to London on which the Executive could make representations. He has also made a specific proposal for the Executive to consider the fuel duty rebate being extended. Surely that would form a useful part of its extended policy review. There we have two constructive policy suggestions from Kenny.

Mr Tosh: I am perfectly happy to debate sensible ideas, but I do not think we have had an idea costed, laid out and described. We have had

an attack on an overall problem, which is very real—I began by recognising that. We must do something to tackle the problems of rural Scotland, and urgently, but I do not think that the approach that is suggested in this motion is at all convincing or credible.

Tricia Marwick: Will the member take an intervention?

Mr Tosh: I have taken three interventions and I must close.

Kenny MacAskill's press release said that he would exclusively reveal that there is such a thing as high fuel duties. Let me exclusively reveal something about Kenny. Kenny will shortly offer unlimited amounts of money, without saying how he will get it, to every citizen, council, agency and interest in Scotland, for every conceivable purpose. He will do that again next week and the week after that. He will do it every week in the build-up to each election. It is the same old stuff from the SNP—"We will spend more on everything, on everyone, for ever, but we will never tell you what it will actually cost or where the money will come from. We just want your votes and we think that if we stand up and make a loud noise we will get them."

This debate and this motion are an insult to the intelligence of this Parliament. They are an insult to rural Scotland, as they mean that we have passed up the opportunity to have a meaningful debate about an issue that needs addressing.

I move amendment S1M-1026.1, to leave out from "through rising" to end and insert:

"and calls upon the Scottish Executive to make representations to Her Majesty's Government with a view to ensuring that fuel prices in Scotland are kept broadly in line with those of neighbouring countries and that prices in remoter areas are brought into line with those in other areas of Scotland."

10:57

Mr John Munro (Ross, Skye and Inverness West) (LD): In spite of what members may think, the United Kingdom fuel tax is not a green tax. It is a brown tax—a Gordon Brown tax.

Over the past six years, the fuel escalator has been used as a blunt instrument, hammering car owners in an attempt to force people to choose public transport. The Government has ignored the fact that in rural areas access to public transport is limited or non-existent. Instead of investing the funds from fuel duty increases in public transport, and instead of accepting the case for special provisions and derogations for rural areas, successive Chancellors of the Exchequer have used the mechanism to increase income from car drivers.

We need urgent action from the United Kingdom Government to deal with the unbalanced playing field between urban and rural transport as regards fuel costs. That means hypothecation and using the moneys generated over the past six years of excessive increases to fund transport and environmental initiatives.

When introducing the fuel duty escalator in 1994, the former Tory chancellor Kenneth Clarke said that anyone who dared oppose it while supporting the international agreement to curb carbon dioxide emissions would be

“sailing dangerously close to hypocrisy”.

The Tory Secretary of State for Transport, John MacGregor, claimed that the fuel escalator was good news for Britain. He said:

“Increases in fuel duty and motorway tolls will help people make informed choices about using their cars.”

What absolute nonsense. Did they not realise that in much of rural Scotland people do not have a choice? Only now, when facing years of future opposition, have the Tories finally recanted on the fuel duty escalator that they invented.

We Liberal Democrats have consistently opposed the manner in which United Kingdom Governments have implemented the escalator. At Westminster we have consistently voted against the fuel duty rises of both Tory and Labour Governments, because those measures stink of false piety. Tax rises have been forced through under the guise of environmental action.

Fergus Ewing: I am sure that in the SNP we all agree that the fuel duty should not have been increased, as John Munro has argued. Why, then, did Charles Kennedy on 16 March in a press release state that fuel duty should be increased by 5p a litre? Would John Munro support his colleague, who represents the same constituency, on this matter, or vote against him?

Mr Munro: I accept that that statement was made. It was addressing the congestion and pollution in urban areas of our country that we hear so much about. But Charles Kennedy went on to explain that there were measures that would address the situation in rural parts of the country.

In principle, as Liberal Democrats we accept the need to cut non-essential car journeys. We all recall that a royal commission in 1994 called for the doubling of fuel prices over 10 years to cut non-essential car journeys. Tory and Labour Governments supported those proposals with glee, until this year when it became apparent, even to Gordon Brown, that that duty was damaging the economy, rural areas and jobs. The royal commission and successive chancellors failed to understand that in rural areas there are no alternatives to the car. Practically all rural

journeys are essential.

A Scottish Office study in 1998 showed that less than 10 per cent of rural residents used a bus once a week or more. Buses account for just 2 per cent of all journeys in the Highlands and Islands. The report by EKOS Ltd for Highlands and Islands Enterprise and the Highland Council in January showed that the average mileage in the Highlands is 75 per cent more than the Scottish average. The same report showed that fuel prices varied between 5 and 15 per cent more expensive than the average in the central belt.

We need honesty in regard to our taxes upon motorists. A genuine environment tax to cut non-essential car use can be justified only if it is revenue neutral. Every single penny that is collected must be ploughed back into public transport and special provisions for rural areas. Liberal Democrats believe that motorists in rural areas are taxed enough. The fuel escalator since 1994 should have been used to tackle rural exclusion. Postcode-based allowances or value added tax derogations could have ensured that the effect of duty increases was ameliorated for rural motorists.

Scottish Liberal Democrat member of the European Parliament Elspeth Attwooll has pursued the European Commission on the question of reducing VAT on fuel duty in rural areas from the current 17.5 per cent to 5 per cent. Westminster must be forced to follow that through. Liberal Democrats will support changes to the taxation and duty system that faces motorists only where such changes are entirely revenue neutral, and where rural motorists are given special protection against increased costs.

Issues around fuel duty are, of course, reserved to Westminster. We welcome the efforts that are being made by the Scottish Executive where it has authority. We welcome efforts to create a Highlands and Islands transport authority as a key part of an integrated transport network throughout Scotland. We acknowledge that £14 million extra has been invested in rural transport. We also welcome the action taken by the Executive to extend the rural community transport grant scheme, and the additional grants to protect rural petrol stations. The Scottish Executive is taking action, and recognises the difficulties that fuel duty creates in our rural areas.

I share the sentiments of Fergus Ewing, who was quoted in yesterday's *The Press and Journal* congratulating Ross Finnie on “speaking out for Scotland” on fuel duty. But I ask the SNP, is it really serious when it calls for fuel duty that is raised in Scotland to stay in Scotland, and for duty that is raised in England to stay in England? Only 6.8 per cent of UK fuel duty is raised in Scotland, yet Scotland receives more than 10 per cent of UK

spending through the Barnett formula. An independent Scotland would thus mean an increase of around 50 per cent in fuel duties just to raise the same amount of money that we do at present.

Andrew Wilson: Will the member give way?

Mr Munro: I am winding up.

It is a serious issue, facing all areas. Liberal Democrats are coming up with solutions that will protect rural areas. I suggest that the Parliament should speak with one voice to Westminster, so that our rural areas get what they deserve: a better deal on transport and fuel tax.

The Deputy Presiding Officer: We have until 11.48 am for open debate, and 11 speakers. If speeches are kept to about four minutes, it should be possible to fit them all in.

11:05

Brian Adam (North-East Scotland) (SNP): I was most intrigued by the minister's great difficulty in getting the name of my party correct. To help him, the name of the party is the Scottish National Party—I hope that he will get that right in future.

I was also intrigued by Murray Tosh's great diatribe. He did not seem to understand, nor indeed did the minister, that the SNP is offering, as part of this debate, two solutions to which we should give serious consideration: the rebated fuel duty and the possibility of using red diesel. We suggest to the Parliament that the Executive make the appropriate representations to the Westminster Government on those matters.

The Executive is looking for a detailed response. We have the facts and figures here, but we will not do all the work for the Government. Indeed, why should we also do all the work for Mr Tosh? If he had taken the trouble—since he was so concerned—and had paid close attention to the figures, he too could have had this information.

Mr Tosh: This is a serious Parliament indulging in a serious debate. It would be helpful if Brian Adam would specify precisely which services are to receive this assistance, how much money the SNP proposes to spend and which section of the Executive's budget it will draw the money from.

Brian Adam: I am talking about money that is being recycled round the system. Mr MacAskill has suggested that such money might have a major impact on Highlands and Islands Airports Ltd. In fact, all that happened there was that money was recycled from the Scottish budget to the Ministry of Defence's budget.

What we are doing with fuel duty is recycling back to Westminster a substantial part of the £77.6 million that is currently spent on school

transport. The money does not provide direct services, which seems an inefficient use of it. Indeed, in Aberdeenshire, one of the areas that I represent, 10 per cent of that money is spent on school transport. Would the money not be better applied to providing more obvious services? It would be more fair and transparent if that money were being used for public services.

The education services in particular in Aberdeenshire have been cut, partly due to the poor settlement given to Aberdeenshire by Mr McConnell, but also due to the poorly run administration there, which has singled out education for cuts.

The suggestions that we are making this morning, and the figures that we are giving on how the costs impact on services, are fairly straightforward. I strongly suggest that the minister look closely at how—

Cathy Jamieson: Will the member give way?

Brian Adam: Sorry, I did not notice the member.

Cathy Jamieson: I did not realise that I was so small and insignificant.

Brian Adam: I did not hear the member.

Cathy Jamieson: Does Brian Adam agree with the comments attributed to Kenny MacAskill which appeared in a recent newspaper article? Mr MacAskill seemed to accept that EU rules mean that national taxation has to be applied at a standard rate and that the only apparent scope for alteration to the fuel charges is to surcharge motorists in urban areas.

Brian Adam: It is quite possible to vary VAT. Indeed, Mr Munro mentioned that issue earlier. What we are doing here is recycling taxes, when they would be much better applied directly to providing public services. One of the major problems with taxation in this country in recent years has been the significant movement away from the traditional position of taxes based on ability to pay, to indirect taxes. That is a major factor.

John Farquhar Munro is absolutely correct: these are Brown taxes, not green taxes. They do not deliver improvements to the environment or tackle congestion. They are merely revenue-raising mechanisms.

We have made two significant suggestions and the Executive has the capacity to do something about it. The Executive will have its share of the £140 billion and the opportunity to allocate it. The SNP has made two positive suggestions about how to make best use of that money.

11:10

Allan Wilson (Cunninghame North) (Lab): I cannot tell members how pleased we are on the Labour benches that the Scottish nationalist party has called this debate on fuel prices. It is important that this Parliament and the wider public are clear about the SNP's policies. However, as SNP members themselves seem far from clear, that might be an ambitious goal.

Having examined their various announcements and policy proclamations, I tend to think that the SNP members are having this debate to allow us to point out to them the inconsistencies, contradictions and gaps in their policies. They seem to treat this chamber as a consultation exercise, putting forward a number of differing, and often contradictory, options to test their validity. As a policy-making process, that technique is deeply flawed. SNP members owe Alasdair Morrison some thanks for his helpful critique and for pointing out where they are confused and where they have got it wrong, although they will be disappointed at the short time that he had at his disposal to do so.

The SNP has no answers to issues such as price differentials or public transport. Its economics would cost the Scottish people jobs, income and quality public services. By separating out fuel pricing from the wider issues of transport policy, the SNP will continue to flounder for an answer.

Mr MacAskill: Why is it that, down south, when differential car prices vis-à-vis Europe are a problem, the minister can apparently consider legislation immediately? As I said, when Murdoch proposed to take over Manchester United, instructions were given for the Office of Fair Trading to investigate. However, it seems that the present Labour Government can do nothing about differential fuel prices, and is waiting 16 months, 18 months or longer for the OFT to report. If Labour can legislate on car prices, why cannot it legislate on fuel prices?

Allan Wilson: We are waiting for the OFT report, as is Mr MacAskill, who admitted in the *John o' Groat Journal and Weekly Advertiser* article that he was

"still looking for the best solution to the problem of exorbitant fuel prices".

He thinks that the OFT report will provide those answers, and so do we.

Fergus Ewing: Will Mr Wilson give way?

Allan Wilson: I am just coming to Fergus Ewing; he can just hold his horses for a moment.

The SNP conference last year called for lower rates of duty to be applied in rural areas, and that position was recently reiterated by Fergus Ewing.

Kenny MacAskill tends to agree with Labour that that is an avenue that raises false hopes and sets up a prospective confrontation with Europe. However, it is clear that the European Commission would rule out such derogations as being contrary to state aid policy or leading to distortions of internal markets. He criticises us for a lack of joined-up government, but there should be some joined-up opposition from the SNP.

That policy is not unrealistic only because Kenny disagrees with it. There are huge difficulties in setting the boundaries of the areas that would benefit. Reducing prices in one area would encourage people from adjacent areas to drive there to buy petrol. While promising the impossible for short-term popularity, the SNP neglects the long term by encouraging independence and the use of an expensive and polluting mode of transport. That is a further example of the hypocrisy, given its membership of the European Federation of Green Parties.

Labour's goal is to deliver a transport system that provides genuine choice for all.

Andrew Wilson: Can Allan Wilson explain exactly how the fuel duty has affected the demand for petrol?

Allan Wilson: One of my Liberal colleagues has already quoted no less an authority on the subject than Ken Clarke, who said:

"Any critic of the Government's tax plans who claims also to support international agreement to curb carbon dioxide emissions will be sailing dangerously near to hypocrisy."— [*Official Report, House of Commons*, 30 November 1993; Vol 233, c 939.]

The SNP is indeed sailing dangerously close to hypocrisy.

As we know, the chancellor abolished the fuel duty escalator in the last budget and hypothecated any money raised from the increased fuel duty for use on roads and public transport. That undoubtedly causes problems for the Scottish nationalist party, because the money raised from the escalator is included as income in its budget for a separated Scotland. Andrew Wilson and Alex Salmond had better get out the bookies' biros again to readjust the black hole that exists in the SNP spending plans.

Both at Westminster and in this Parliament Labour is implementing properly budgeted policies and initiatives allowed to us by the successful management of the economy. Those budgets are transparent and open to examination. The SNP calls for more and more spending, but refuses to show how it would pay for it. The motion put forward by Kenny MacAskill is as confused and misinformed as is the SNP's policy. He tried to paint a picture of Scotland-raised revenue going to London to be spent there, when we all know that

the constitutional settlement voted for by the Scottish people means that the Barnett formula ensures that that money plus some more is returned and spent in Scotland.

The Deputy Presiding Officer: Close now, please.

Allan Wilson: I am concluding.

The Deputy Presiding Officer: You are a full minute over, so you are denying other members a chance to speak.

Allan Wilson: This fuel duty rebate seems, in practice, to be the same as ring-fencing public expenditure for use on fuel. It would take away the flexibility and creativity that we would allow public services to have. Kenny MacAskill's motion calls for an extension to the fuel duty rebate. It is yet another example of SNP faraway-tree, Enid Blyton economics, where it tries to increase expenditure by reducing income.

11:16

Dorothy-Grace Elder (Glasgow) (SNP): It has been a most amusing and entertaining morning. Murray Tosh complained about loud and noisy speeches. I am afraid that that is rather like the 1 o'clock gun complaining to the Noise Abatement Society. I do not want to offend any sensibilities; however, I will emphasise that I come from the Scottish National Party. After almost 70 years, can people please understand that that is its name?

More than a year ago, in May 1999, I entered this Parliament, driving up to the front on a 40 tonne truck. There is no truth in the appalling rumours that the newspapers captioned the pictures the next day, "The truck is to the right; she is on the left." That was the first protest to this Parliament and it was about fuel tax, in relation to the latest and most appalling hike by Gordon Brown in March last year. That truck was driven by Mr Russell Smith of Denny, who represents an old and decent family business. Mr Smith's business was about to be hit for an extra £70,000 a year by the fuel tax hike. That is an extra £70,000 that punishes a Scottish business, which started bravely as a haulier in the age of the horse and cart. Nowadays, 40 different haulage firms have closed within the past year. They cannot keep going against competition from such as the French, who fill up their diesel tanks in Calais—those tanks are extended so that they can manage runs up to Inverness and back. That is what we are forcing our Scottish firms to compete with.

We have forgotten about taxis in this debate. Taxi drivers, and private hire drivers, are suffering a direct loss of income for each driver of between £20 and £30 a week due to Gordon Brown.

We know that this tax is crippling tourism in

Scotland. The Dutch, in particular, like to come to Scotland to drive around. They love driving holidays and many of them are among our caravanners. I love caravanners on the roads, unlike most people, because caravanners are exceedingly nice tourists. Look at how they are being punished when they arrive in this country and see more than double the prices that they pay in their own.

Petrol tax, parliamentarians, is not just a stealth tax. Look at the first five letters of that word—"steal". It is stealing from the Scottish public. It is grossly unfair. Scotland is Europe's largest oil producer, as we all know. Can members imagine any other oil-producing country in the world where the local inhabitants are so punished? Do the Texans or the Saudi Arabians pay more? Of course they do not, as oil producers, apart from this poor country, hold the whip hand. Scotland is kept poor because of the money that is stolen from its oil wealth.

Mr Morrison said that there was no black hole in London into which the money was being sucked. I do not think that he has visited the black holes that I have visited in London over the years. Mrs Thatcher built London docklands by ripping off Scottish oil money. I refer Mr Morrison to the autobiography of Dennis Healey, the previous Labour Chancellor of the Exchequer. He said:

"But for North Sea oil Britain would have been bankrupt in the early 1980s and Mrs Thatcher would not have won a second term."

We are a rich country which is kept poor. I tell the minister and Westminster to get off our backs and let us get off our knees.

11:21

Mr Jamie McGrigor (Highlands and Islands) (Con): It must be obvious to anyone who has sat for hours in a traffic tailback on the outskirts of London, as I did recently, that discrimination against the private motorist by continual hikes in fuel tax is not working even in urban areas. In rural areas such as Argyll, the western islands and elsewhere in rural Scotland, the option of a viable public transport system to replace the private car is simply not available at a reasonable cost.

When Labour came to power, the situation was bad enough as petrol cost 58p a litre, but within three years it has risen to more than 80p a litre and, in some remote areas, to 90p a litre. That is a rise of 40 per cent. It has compounded difficulties in the rural economy, all sectors of which are under severe threat. It has loaded the dice even further and has caused distress by imposing the highest fuel charges in areas that can afford them least.

The average Scots driver has been paying the

equivalent of 2½p more in basic income tax since Labour came to power. There is a double whammy, as the roads are getting worse, which causes extra damage to cars and therefore higher garage bills. We pay higher taxes for a poorer service. Out of the £2 billion that is paid in tax by Scotland's motorists, only £244 million—14 per cent of the total—is spent on roads and public transport. Scotland's road hauliers pay a vehicle excise tax that is 11 times as much as is paid in France. Where is the harmonisation in that?

The average price of diesel in Scotland is 72p, compared to an EU average of 42p. The economic impact on rural fuel stations is obvious and devastating. People cannot find stations at which to buy their fuel. At the present rate of closures, up to half of Scotland's fuel stations could close within five years. The main tourism competitor of the Highlands and Islands is Ireland, but every time a tourist fills up his tank in the Highlands, he pays on average between £16 and £18 more than he would in Ireland. How are we meant to compete? Argyll alone loses £10 million per annum—5 per cent—because of the failure of tourists to return, a failure that is caused by the price of fuel.

In the Highlands and Islands, motorists pay £88 million more in driving costs than do motorists in the central belt. On average, 15p more a litre is paid up there than is paid in Edinburgh. Highlanders are thereby paying a great deal more in VAT, which proves that there are already different tax areas in the UK. Surely it is time to find a simple method of giving a fuel discount in rural areas. That could be done by carefully studying the map of Scotland and ascribing a different tax code to rural petrol stations, to reduce the current unavoidable tax penalty on users in rural areas.

Tourism all over Scotland would be given a boost. The number of private car tourists has dropped considerably due to high fuel costs. Those high-spending tourists pass through urban areas on their way to rural areas. In particular, foreign users must be encouraged, as driving a private car in the Highlands remains a great pleasure, which should be promoted. Most small rural businesses, which are being crippled by the unavoidable overheads of travel costs and transportation, would be boosted by such a measure and would create more employment.

I am interested in Alasdair Morrison's good idea about LPG, which would be helpful to local residents, as long as changing to such a system was affordable. However, we must also get rid of the rural disparity of which Murray Tosh spoke. Why does the Government not use joined-up thinking to give rural areas a fuel advantage? Such measures have been successful in America and Canada. I say to the Executive: please take

note and please stop the paradox of the poorest areas of Scotland making the largest fuel tax contributions.

11:25

Rhoda Grant (Highlands and Islands) (Lab): I welcome the opportunity to discuss an issue that is very important to many of my constituents. I am neither amused nor entertained by this morning's debate. The motion is narrow. It should consider the broader issues of transport in the Highlands and Islands, the things that are important to people. I will address some of those later.

The Labour Government has recognised the problem faced by rural motorists and has abolished the fuel duty escalator. As Allan Wilson said, any future increases will be hypothecated to transport spending. The issue of real concern to people in the Highlands and Islands, in addition to the high price of fuel, is the differential between rural and urban areas. I can well understand the frustration and sense of unfairness that people feel when they see that petrol is so much cheaper in urban areas. There is no reasonable explanation for it; it is unrealistically cheaper. I look forward to the OFT report into the issue, which cannot come soon enough.

Fergus Ewing: Will the member give way?

Rhoda Grant: No, I must carry on, as I do not have a lot of time.

We should concentrate on what this Parliament and the Executive can do. The Executive is aware of the problem and has identified areas for support. There has been help for rural petrol stations with the cost of tank replacement and ground water problems. The Executive has also given local councils discretionary powers to provide rates relief of up to 100 per cent for petrol stations. Such assistance keeps rural petrol stations open. Had they closed, people would have had to travel longer distances to put petrol in their cars, which would have added to their costs. That measure was within the remit of this Parliament and has been delivered.

I urge the Executive to go further and to establish a Highlands and Islands transport authority. I also support Calum MacDonald's call for such an authority to be allowed to bulk buy fuel to sell on to rural petrol stations. However, that is not an easy answer. It needs to be examined in some depth. We need to negotiate with the petrol companies. Many stations are tied into contracts for many years. To establish a contract for one lot of petrol stations, which others cannot join, would create an unlevel playing field and would put more stations out of business. The policy must be considered and taken forward.

Giving an authority such powers would provide a wake-up call to the oil companies. They tell us that they cannot give discounts to the Highlands because not enough petrol is sold there.

Mary Scanlon (Highlands and Islands) (Con): Will the member give way?

Rhoda Grant: I am struggling to fit into my time. I am sorry.

The SNP blames the Government for high fuel prices, but has not come forward with a solution. The SNP constantly takes the pressure off the oil companies, getting them off the hook. Brian Wilson worked hard to urge the oil companies to reduce fuel prices. That paid off when BP announced the scrapping of the retail zonal premium, which resulted in a reduction of 1p. Okay, 1p might not be enough, but it is a cut that would not have happened if we had approached the issue in the same way as the SNP approaches it—ignoring the role of the oil companies and focusing on the Government makes scrutiny of oil companies difficult. If we all took that line, we could not have done it.

The wider issue of public transport is really important. We must consider new solutions to address the shortage of quality public transport in rural areas. We cannot allow the debate to focus on the car. The car is an essential lifeline, but it is not the only one. The most recent census showed that in some of the most remote areas of the Highlands and Islands a third of households did not have access to a car. That is why we need alternatives, for example, community minibus or community car schemes to which all members of the community have access. The rural transport fund has provided funding and will provide funding for such schemes in the future.

Those are real, innovative solutions to problems that this Parliament can address. I urge all parties to come forward with other solutions to tackle the problem.

11:30

Andrew Wilson (Central Scotland) (SNP): I have found the debate to be informative, interesting and significant. To Rhoda Grant, I would say that for the average oil company the margin on a gallon of petrol is less than a 10th of the chancellor's tax take. A proportionate response would be appropriate.

The key idea from the Labour speeches was that the fuel duty was somehow an environmental tax. Allan Wilson was challenged on that point. There is no evidence to support that idea; the fuel duty continually rises and the take continually rises, because the demand for petrol continually rises. Allan Wilson should examine the facts and

not rely on Ken Clarke for economic advice. The fuel duty is an ineffective, distorted and—most important—regressive tax, which damages human beings as well as the economy as a whole.

The chancellor takes a mark-up of 333 per cent on average from a gallon of petrol. More important, the duty has gone up by 39 per cent under the Labour Government—five times the rate of inflation. That is the most distorted and damaging of Labour's economic policies. However, the most important point—and the reason why I was reading *The Sunday Telegraph* at the beginning of the debate—is the myth that the fuel duty escalator has been stopped. That is something that the Labour brief has persuaded the back benchers to believe, but it is simply not true. This year, pensions were increased in line with one rate of inflation—1.1 per cent—whereas fuel duty was increased by 3.3 per cent, which is three times that rate of inflation. The chancellor is guilty of a cruel lie and a distortion in the latest budget; by forecasting inflation at three times the rate that he increased pensions, he hit pensioners at the same time as he hit every person at the petrol pump. His policy is a lie and a deceit, which the chamber should condemn absolutely.

When the policy was challenged, the Labour party line was, "This is what the Tories used to do." I am the first to criticise what the Tories used to do, but even that excuse was a lie. Three days later, Labour had to admit that the policy was a Labour innovation, designed to hit pensioners as well as motorists. Those are the lies that are coming from people who are being paid a fortune to lead the country—it is a disgrace and they should be condemned. We should not have to rely on Her Majesty's *The Sunday Telegraph* to tell us the truth.

Bristow Muldoon (Livingston) (Lab): On a point of order. In the past, the SNP has objected to Labour members accusing other members of lying. Presiding Officer, will you rule on Mr Wilson's speech in that respect?

The Deputy Presiding Officer (Patricia Ferguson): Such points have been raised in the past. I will double-check the *Official Report*—as I have on previous occasions—and take appropriate action.

Andrew Wilson: I am happy to reaffirm my point that, if someone says that petrol is to be uprated according to inflation and uprates pensions by 1.1 per cent when petrol duty goes up by three times that, they have either made a mistake or told a lie. Either way, the chancellor is to be condemned.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): Will the member give way?

Andrew Wilson: If Malcolm Chisholm has a reasonable point, I will be happy to give way.

Malcolm Chisholm: As ever, I have a reasonable point. As an economist, Andrew Wilson knows perfectly well that there have always been two official rates of inflation, depending on whether mortgage rates are taken into account. Gordon Brown's announcement was in line with well-established practice; certain inflation rates are used for certain upratings. There was no departure from decades of tradition.

Andrew Wilson: It is an absolutely new innovation. There is one rate of inflation that uprates every benefit and pension in the country—the same rate should be used for uprating fuel tax. Fuel tax was uprated at three times the rate of inflation based on a Treasury forecast—everyone knows that a Treasury forecast is not to be trusted.

I ask Murray Tosh—wherever he is—to reflect on the fact that Kenny MacAskill has made two serious and considered suggestions. First, the Executive should approach the Treasury for an extension of fuel duty rebate. Alasdair Morrison should not simply say that that would cost the Executive money. He should have unallocated money in his current budget; if he does not, he should tell us so. He must consider and review the implications of an extension of fuel duty rebate. If that cannot be done, we should be told why. What are the constraints on the Executive? There is an inconsistency: why is a rebate good enough for road rollers but not for police cars and ambulances? That is a policy mistake that the Executive must consider. The Opposition's job is to press and probe the Executive on areas where its policy does not stand up. That is a job that, today, Kenny MacAskill has undertaken ably.

Labour members—and the Conservatives—must reflect on the fact that this is the issue for most people in Scotland today. The price of fuel affects everyone and the duty hits everyone hard. Those members can either stick their heads in the sand and pretend that the policy is not hurting or they can join us in condemning Gordon Brown for his lies, deceits and the appalling way in which he is treating Scottish motorists.

11:34

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Although the price of petrol and diesel is a reserved matter, it is absolutely right and proper for us to debate it today. Even though we do not yet have the power to effect a change in the taxation system in Scotland, we can voice our concern at what are the highest petrol prices in Europe, if not the world.

Brian Adam: Will the member give way?

Mr Rumbles: I have only just started—however, I will give way.

Brian Adam: The member says that we do not yet have the power to deal with such issues in this Parliament. Does he agree with his colleague Malcolm Bruce that we should have significantly greater powers over fiscal matters in Scotland to be able to do so?

Mr Rumbles: I am perfectly happy to acknowledge that view. I agree entirely with Malcolm Bruce's comments and understand that devolution is not an isolated incident, but a process. [MEMBERS: "Oh."] Let us get back to the issue. Six years ago, I left the Army. My last posting was to the British military garrison in Münster, Germany; because of the huge cost of petrol in Germany, we received coupons for half-price petrol—I think that that is still the case. However, petrol in Germany costs 60p a litre and, as has already been pointed out, it is more than 80p a litre in this country. I find that situation somewhat ironic.

The Rural Affairs Committee is conducting an inquiry into employment change. The lack of public transport and the outrageously high cost of fuel in our countryside is consistently the issue that people have raised as the most important example of the difficulties faced by our rural economy. As part of its inquiry, the committee held one of its six public meetings in Laurencekirk, which is in my West Aberdeenshire and Kincardine constituency. I can tell the chamber again about the strength of feeling that was expressed on this subject. If we could change just one aspect of taxation policy in order to help rural Scotland, fuel tax would be the one.

Mr David Davidson (North-East Scotland) (Con): Will the member give way?

Mr Rumbles: Not again.

Mr Davidson: I have not spoken yet.

Mr Rumbles: I will let David Davidson in later.

Much nonsense has been spoken about the Liberal Democrat approach to petrol taxation. I want to make it absolutely clear that we support environmental taxes and the polluter pays principle. However, we do not believe that the high fuel duty imposed by Westminster can be supported because, as John Farquhar Munro rightly pointed out, it is a Brown, not a green, tax, whose purpose is solely to raise revenue for the Treasury.

Fergus Ewing: Will the member give way?

Mr Rumbles: Go on.

Mr Davidson: Oh, so Fergus gets in.

Fergus Ewing: I was interested to hear Mike Rumbles say that fuel tax is far too high. In that case, why does Charles Kennedy want to add 5p a litre in tax to make it even higher?

Mr Rumbles: As ever, Fergus Ewing has a selective memory. Charles Kennedy has made it absolutely clear that there are two halves to Liberal Democrat policy in these areas. People who drive up to 23,000 miles—[*Interruption.*] Do SNP members want to listen to the answer? People who drive up to 23,000 miles a year benefit from Liberal Democrat policies.

Not enough of the money raised from the poor motorist is used to fund alternative means of transport. More important, there is no recognition of the impact that such punitive rises in petrol taxation have on our rural areas, where driving a car is not a luxury to be discouraged, but an essential of life.

The Liberal Democrats have voted against fuel duty rises at every budget, due to the failure of successive Conservative and Labour chancellors to address the real issues. Does David Davidson want to intervene now?

The Deputy Presiding Officer: Mr Rumbles, you really should be winding up now.

Mr Rumbles: Okay.

Although this is a most important issue, we must not forget the efforts of the Labour and Liberal Democrat coalition to help the situation. As well as the fact that £14 million has been made available for road transport initiatives, 350 new or improved public services and 53 community transport schemes have been assisted. Within the limits of its powers, the Executive is doing a reasonably good job. However, the Liberal Democrats have demonstrated that we will rural-check policies to ensure that they meet the needs of our rural areas, and we will continue to oppose the imposition of higher fuel duty until the problem is recognised by Westminster.

11:40

Mary Scanlon (Highlands and Islands) (Con): It was quite amusing when speaker after speaker spoke about the dearth of policy proposals in the motion. At one point, I thought that Kenny MacAskill was advocating that we go to work on a lawnmower. That would be a unique and innovative idea.

Mr MacAskill: It would be cheaper.

Mary Scanlon: But we would never get to work on time.

I get annoyed when people assume that petrol is much more expensive in the Highlands than it is elsewhere in Scotland. I do not think that that does

too much for tourism. It is true that petrol is more expensive in the islands, but the prices are exactly the same in Inverness as they are in Edinburgh. The issue is not the Highlands versus elsewhere, but urban versus rural. Petrol is more expensive in rural communities in north-east Fife such as Anstruther, Cellardyke and Auchtermuchty than it is in the Highlands.

Pricing people out of the car and into public transport is a laudable proposal for overcrowded cities. However, there is no reasonable alternative to the car in most parts of rural Scotland, especially for tourists. From our office window, we can watch people taking a tour of the whole of Edinburgh in a double-decker tourist bus. To see the Highlands of Scotland would cost £200 or £300 in petrol. It is impossible to see the Highlands by public transport.

Alasdair Morrison and Rhoda Grant mentioned the investment in the petrol station at Kllilchoan in Ardnamurchan, which is the most westerly point in Britain. However, the investment was aimed not at bringing down the cost of petrol sold but at allowing the petrol station to stay open. It would be misleading not to point that out.

I am concerned about the inelasticity of demand for petrol. Petrol—however high the price—is a necessity in the family budget that must be met before budgeting for food and other household expenses. That means that people on low and fixed incomes are penalised more heavily by petrol prices. The same applies to the cost of employment: travelling to work costs those in a rural area much more than those in an urban area, although the wages might be the same.

In the Highlands—despite the fact that residents of the area get only 80 per cent of the average EU income—car ownership is much higher than it is in the lower-income categories in major cities. Two thirds of people in the Highlands who earn less than £10,000 a year own a car. In Glasgow, very few people in that income group own a car. The car causes deprivation in low-income groups. It is ironic that the poorest members of our rural society might be paying more in tax on petrol than they pay in income tax. The repopulation of the Highlands and the stabilisation of the economy has gone hand in hand with increased mobility in the form of the motor car. As Mike Rumbles said, to price people in the Highlands out of the car would have a devastating effect on the fabric of rural life and might reverse the repopulation that has taken place.

Rural areas have benefited from increased car ownership as people have access to centralised public services and jobs while continuing to live in remote and rural areas. Many people would be unable to visit a hospital in less than a day without a car. They would have to pay for public transport

and overnight accommodation and would also waste time.

Although this Parliament does not have the powers properly to address the issue, we can give a clear message to Westminster MPs—including those sitting in this chamber—that the matter should be debated in a place where decisions can be made.

11:44

Robin Harper (Lothians) (Green): A few words in preface: I have no problem with the calls from members to do something about rural fuel prices. Something must be done, and as soon as possible. However, that is not an argument against the fuel price escalator, a problem that I shall address in the few minutes that I have.

The Conservatives, in their wisdom, introduced the fuel price escalator; the Labour party has backed off it; the Liberal Democrats have two policies on it; and the SNP has at least been consistent in attacking it.

I shall present members with some figures to study so that they can make up their minds on the basis of reality. The first set of figures is from the period between 1993 and 1998 and the second set of figures is from the period between 1974 and 1998. From 1993 to 1998, UK policy was to increase the price of motoring to make it reflect more accurately its social and environmental costs and to improve the competitiveness of public transport. Most important, that occurred through the fuel duty escalator—a policy that increased the duty on fuel at above-inflation rates, in line with the recommendation in the Royal Commission on Environmental Pollution's 1994 report "Transport and the Environment". The commission is now reaffirming that we need a general policy of high taxation on fuel, and Labour can take no pride in backing out of such an important policy before it has taken proper effect.

For most of the period from 1974 to 1998, the UK Government policy was characterised by an obsession with providing for private motoring irrespective of the consequences of such a policy. By 1998, rail fares had risen by 80 per cent, bus and coach fares had risen by 50 per cent and overall motoring costs had fallen by 1 per cent in real terms. We have therefore had only two years of a real fuel price escalator.

Mr Tosh: I advise Mr Harper that other factors must be considered, in particular the competitiveness of Britain internationally in the freight and tourism industries. Simply to press on with the fuel duty escalator and not to consider the relative prices of fuel in other countries could be deeply economically damaging, even before we start to examine the impact of the fuel duty

escalator in rural areas.

Robin Harper: I shall address those points in concluding my speech.

Huge advantages could accrue to this country if we adopted the simple strategy of economising on all fuels. That would save untold damage to our environment and would, ultimately, make this one of the most economically competitive countries in the world.

The SNP is in alliance with the Green group in Europe. It is not in the European Federation of Green Parties, which is made up of 30 Green parties spanning the old iron curtain. I am afraid that the SNP would not stand a chance of getting into that federation—at least, not at the moment. However, it is in alliance with the Green group. The SNP should be campaigning for a European fuel price escalator that would be effective in reducing environmental pollution and that would provide a Europe-wide efficient transport system.

Brian Adam: Does Robin Harper agree that, so far, the fuel price escalator has had no impact on the environment in terms of a reduction in traffic? Can he tell us precisely how much extra duty we should add to fuel?

Robin Harper: I accept that the fuel price escalator was just starting to have an effect when the Government backed off. The whole point of it was to establish an escalating series of economies. When someone bought a car, their first consideration would have been its efficiency. What is actually happening in the car market? An increasing number of huge, multi-purpose people-movers are being sold and the small car market has not expanded as one would have hoped.

I conclude by saying that it is sad that the Labour party gave up on one of the best environmental policies that it had been gifted by the Conservative party.

11:50

Janis Hughes (Glasgow Rutherglen) (Lab): The cost of fuel in Scotland is a serious political issue. It directly or indirectly affects every person in the country. We must therefore approach this debate rationally, responsibly and intelligently. Unfortunately, the nationalist rhetoric that we have heard this morning has approached the debate in none of those three ways.

I have to say how frustrating it is to have to stand here, week in and week out, defending the union. I did not think that that was what this Parliament was supposed to be about. As long as the SNP continues with its pointless, petty attempts to drive a wedge between the Scottish Parliament and the Westminster Parliament, I will not be able to understand the point of its being

here.

Ms Sandra White (Glasgow) (SNP): Will the member give way?

Janis Hughes: No, I am sorry. We have had 15 minutes from Mr MacAskill, plus all the rest. I think that we have heard enough from the SNP this morning.

In delivering an efficient and modern transport system, the UK Government and the Scottish Executive have to balance a number of competing considerations. It is important that our transport policies cater for everyone in Scotland—from people living in the centre of Glasgow who cannot afford a car to people living in the rural Highlands who simply cannot survive without one. We must also always be mindful of our environmental obligations. Legislative bodies cannot allow car use to escalate out of control, as that would cause tremendous environmental damage. We therefore have to consider ways of making everybody think twice about whether they need to use their car.

That thinking cannot be blindly applied in all circumstances. Central to the notion of getting people out of their cars is the provision of a quality alternative. Public transport must be improved before we can be serious about making a substantial reduction in the number of people using cars. I am pleased that a number of recommendations in the recently published Transport (Scotland) Bill address that problem.

I am also pleased that the Executive is providing £90 million through the public transport fund to provide alternatives to car use and to assist in innovative investment in new railway stations, new bus lanes, new rapid transport systems and park-and-ride schemes. The Administration is committed to providing a transport system that is genuinely for all. However, we must consider the rural issue. It is naive to suggest that people living in sparsely populated areas can survive on public transport. Although I represent an urban constituency, I understand that the public transport service in some rural areas is virtually non-existent. That is why I am pleased that the Executive has ploughed £14 million into the rural transport fund.

We would all acknowledge that the promotion of public transport in rural areas can go only so far towards healing the problem. That is why I was heartened to hear that the Executive will continue to discuss with the Treasury possible tax changes to help those rural areas that depend so much on car use.

This is a serious issue. Unfortunately, this debate has become just another attempt by the SNP to undermine devolution and to blame everything on England. The nonsense that was spouted about money from Scotland going to

London was unhelpful and divisive. I am afraid that it was typical of what we have been hearing recently. I will not stand here and pick holes in the SNP's arguments, because I do not believe that that is what this debate should be about. None the less, it is interesting to note, as it has been by more than one person this morning, that the SNP is a member of the European Federation of Green Parties—[*Interruption.*]—which has strong views on fuel prices and which supports a considerably steeper fuel escalator than the one currently used in the UK.

Tricia Marwick (Mid Scotland and Fife) (SNP): Will the member give way?

Janis Hughes: The policies of the SNP fly in the face of its claim to be a friend of the environment. It seems that the party is prepared to say anything that has the potential to drive a wedge between this Parliament and Westminster.

Tricia Marwick: Will the member give way?

Janis Hughes: I am sorry, but I have finished.

11:54

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): The Liberal Democrats can agree with the SNP about the nature of the problem that we are debating. In truth, rural motorists have virtually no choice of transport. In my constituency, the bus network tries to cover the area; however, simply because of the geography, even the best bus network cannot give people access to places when they want it. Of course, we want an improvement in rural public transport, we want better bus services, and we want the rail services to be expanded, to provide a vital economic artery to ill-served areas of our country. No one will be surprised to know that I am thinking of the Scottish Borders.

However, in rural Scotland, the car will always be a lifeline, an instrument of social inclusion and a vital element in the economy. As John Farquhar Munro said, people in the countryside do not make non-essential journeys. That changes the whole pattern of how fuel duty impacts on people who use cars. Similarly, our farmers and road hauliers—the backbone of the rural economy—are massively affected by fuel prices. As Murray Tosh and Mary Scanlon said, all businesses that are associated with tourism are under the cosh when petrol prices act as a disincentive to travel.

We accept the problem—but the solution is not as simple as some people seem to think. The Liberal Democrats favour environmental taxes and agree with the principle that the polluter pays, but we cannot support the highest fuel taxes in Europe. Chancellor Brown must pay attention to the arguments that are being made today. Rural

areas need a level playing field. In the partnership agreement, we acknowledge the concern about fuel duty but note that it is a reserved matter. The Liberal Democrats approve of the measures that the Executive has taken in its area of responsibility, such as the rural transport initiatives, public transport schemes and the community transport grant scheme.

Andrew Wilson: Will Mr Jenkins take the opportunity to agree with his colleague Mr Rumbles that, although this is a reserved matter, it need not be in the long term and that perhaps in time Parliament could take that decision?

Ian Jenkins: I do not think everything for the Parliament is cut and dried and fixed.

Pressure must be kept up on Westminster. Our motorists, hauliers and farmers need and deserve help. Our Liberal Democrat colleagues at Westminster will put pressure on Chancellor Brown. The Parliament is sending out vibrations that ought to be listened to. Although this is a reserved matter, we can nevertheless express a view and we must use such influence as we have.

11:58

Mr David Davidson (North-East Scotland) (Con): This morning I talked on the phone to my insurance broker, who deals, in the main, with farmers. We discussed the small problem that I was trying to get him to sort out for me, then he said, "I note in the papers this morning that you guys are going to deal with fuel taxation." Nice of him to say so. He went on to say that he was going to the Highland show, which opened today. Fuel taxation is a major issue for the rural economy and presentations will be made about it at the Highland show.

The debate this morning suggests that most members, in one way or another, accept that the high price of fuel here in relation to the rest of the European economy is doing Scotland no favours and will be deeply damaging to the long-term prosperity of our rural community if something is not done, but who is to do it?

Dorothy-Grace Elder mentioned how nice it was to see so many Dutch people coming to Scotland. A couple of days ago, a garage owner in the Trossachs told me that he was at the pumps one afternoon when he saw a string of Dutch cars heading back to the coast mid-week, which is unusual. He asked the Dutch people if they had enjoyed their holiday and was told yes, but that they could not afford to go on to the Highlands as they had wanted—their budget was not big enough.

Today, we are supposed to be considering the economic issues, although when I listened to

Kenny MacAskill's usual rant and cant, I lost the plot a little about what he was trying to demonstrate. If he is supposed to be the shadow minister, he has a duty to come to the chamber and present clear policies, although, by all means, he should question the Government.

Mr MacAskill rose—

Mr Davidson: I do not have time to take an intervention from Kenny MacAskill, and anyway there is no point. I will follow what one of his colleagues did to members who tried to intervene yesterday.

Having dealt with the SNP's role, I will move to that of the Conservatives—[*Interruption.*] Oh, behave yourselves, boys.

We should consider the role of the SNP and the Conservatives in opposition and, to an extent, the role of the Liberals—they are partly in opposition, as I am not quite sure on which side of the fence they sit on this matter. We could push collectively for the Government to go to Westminster—we have no argument with that approach. Since the election, we have said consistently that we should debate in this chamber the issues that affect Scotland. However, the thoughts that we take to Westminster must be rational. I would like those members who go to Westminster, such as Mr Salmond, to do a little more, a little more rationally, when they are there.

Mr Alex Salmond (Banff and Buchan) (SNP): I am grateful to Mr Davidson for giving way.

Mr Davidson mentioned an insurance broker and a garage owner—no doubt they support the view that we should debate fuel duty today. He also agreed that we should hold this debate and take the case to Westminster. How does that position square with the view of Mr McLetchie, expressed in the Parliament two weeks ago, that we should not debate reserved matters?

Mr Davidson: I do not think that that is what Mr McLetchie said—Mr Salmond is misrepresenting his comments. Mr McLetchie said that we have the right to debate such matters, and that the only other right we have is to send a clear message to Westminster through the usual procedures. We are following those procedures—we have done so before; indeed, Mr McLetchie has done so himself.

The Liberals have come up with a range of policies today, which, I presume, are based on their federal position. It was interesting to hear them slate the cost of fuel, given that they want to raise new taxation through this Parliament. Where is the balance in that approach? My colleague, Murray Tosh, in his rationally delivered speech this morning, pointed out quite clearly that we must have a balanced approach. We cannot simply draw money out of the air.

Mr Rumbles: Will the member give way?

Mr Davidson: I will take an intervention from Mr Rumbles, although I am not sure whether I have time.

The Deputy Presiding Officer: It is entirely up to you whether to accept an intervention, Mr Davidson, but you are running close to your time limit.

Mr Rumbles: Mr Davidson said that the Liberals wanted to raise taxes in the Scottish Parliament. That is not our position. I said quite clearly that devolution is not just a moment in time—it is a process. My personal belief is that we should have more control over our affairs in time. It is as simple as that.

Mr Davidson: So we can assume that Mr Rumbles includes taxation in that position.

The minister said that Gordon Brown had reduced vehicle excise duty on hauliers. Of course he did, but only after he had wellied up the prices in the previous year. The haulage industry is crying out for understanding, and taking one meagre step back, having taken five steps forward, is just not enough. I hope that the minister will take that message to ministers down south.

The minister talked about lifeline grants for filling stations, but will he move the ceiling up to which they are eligible for support? I know of a business that is associated with a small hotel and restaurant; because the total rateable value of that business comes to a certain amount, it does not qualify for Government support. What about the fuel loss for which those little garages are paying, which is disproportionate to that faced by garages with a high turnover? The minister should be paying attention to those issues, to which I hope he will respond at some stage.

Today's debate has been a little unseemly in places, but it flagged up the fact that this is a highly emotive subject. I welcome the fact that the SNP brought the debate to the chamber, although the way in which it did so is a shame. The SNP is asking for little bits and pieces, whereas we need a radical review from the Executive, with the help of the Westminster Government. That review should cover the action that is required to deliver a balanced and inclusive economy in Scotland.

12:04

Mr Morrison: Today we heard about policies of two halves, and this has certainly been a debate of two halves, with many MSPs debating the real issues of concern to rural communities, such as high fuel prices, the availability of public transport alternatives and sustaining lifeline links.

Many speeches were reasoned, realistic and

delivered in a constructive tone. Janis Hughes and Andrew Wilson raised a number of serious and relevant points. My colleague Rhoda Grant, from the Highlands, mentioned the Highlands and Islands transport authority and bulk buying. We are making progress on a transport authority, and bulk buying will be an issue for that authority once it is established.

Sadly, others have chosen to play political games. The nationalist front-bench members have excelled themselves once again with vacuous rhetoric. I will answer one of the first charges that was levelled by Kenny MacAskill, when he brandished an article from *The Independent*. That article, which related a story about Prescott's £140 billion, was complete speculation. Such is the accuracy of the article that it says that the £180 million Nottingham tram is already under construction. In relation to Mr MacAskill's point on Scotland—

Mr MacAskill rose—

Mr Morrison: I am dealing with Mr MacAskill's point. I would appreciate it if he would allow me the opportunity to address the points that he raised in his opening statement.

The direct question levelled at the Executive—and at John Prescott—was whether Scotland would get its share. I stress that Scotland will, of course, get its pro-rata share once the UK settlement is decided in July. Decisions on Scotland's future spending plans will be announced in the autumn. I hope that Mr MacAskill—I know that he is a reasonable man—will accept that.

Mr MacAskill: Will the minister take an intervention now?

Mr Morrison: With all due respect, I must make progress.

Mr MacAskill raised the spectre of the Treasury Dick Turpin stealing from Scotland's motorists. He ignored the fact that the sums that are raised go to Scotland's schools, hospitals and transport. The SNP proposes to extend the fuel duty rebate across Scotland's public services, but ignores the fact that the cost of such largesse would come out of the Scottish budget. Those who claim to oppose the escalator—including some whose party originally imposed it—must explain how, without it, they would have cut the deficit, made money available for public services at levels never seen before and, at the same time, met our international environmental commitments.

The nationalists are particularly fond of comparisons. Every time they go abroad, they return to lecture the people of Scotland on how the promised land could be found if only we were more like the country they have recently visited. I

find myself in agreement, however, with my friend Andrew Wilson, who said that there must be more honesty on the tax issue.

Andrew Wilson *rose*—

Robin Harper *rose*—

Mr Morrison: Honesty means drawing valid comparisons—not just on fuel duty, but on information about taxation that adds to the cost of motoring. Different European countries have different ways of taxing motorists. When that is taken into account, more honesty appears and the comparisons should have the nationalists choking on their own rhetoric. The independently compiled world road statistics from the House of Commons library provide an objective comparison of the taxation that is paid by motorists throughout Europe in respect of various types of vehicles undertaking identical mileage and consuming identical amounts of fuel.

A motorist with a 1000cc engine pays £527 tax in the United Kingdom; that figure includes fuel duty and road tax. I invite Mr MacAskill and his friends to guess the equivalent figure in France. The answer is £640. Norway is another country that the nationalists are always wittering on about. The tax paid there is £821.

Robin Harper *rose*—

Andrew Wilson *rose*—

Alex Neil (Central Scotland) (SNP) *rose*—

Mr Morrison: If Mr MacAskill and his friends, who do not like listening to facts, want to go to Iceland—and on today's performance that seems like a very good idea—they will find that motorists pay nearly £1,200 in tax.

Alex Neil *rose*—

Mr Morrison: Had Mr MacAskill and Scotland made it to Euro 2000, and had he compared his tax burden to that of his Dutch counterparts, he would have discovered that in the Netherlands the amount is a staggering £984, which is almost 90 per cent higher than in the UK.

Robin Harper: Will the minister take an intervention?

Mr Morrison: The Executive must operate in the real world of hard choices and difficult decisions, not in the Alice in Wonderland world that is inhabited by some who have spoken today. That is a line that merits resuscitation. Mr MacAskill makes the politics of never-never land seem semi-realistic. Our aim is to deliver worthwhile transport improvements that are of direct benefit to rural communities. That involves action along a wide front; it requires patience and hard work. That is what serious government is about—it is not about frivolous soundbites.

I should make the very obvious point that running an Executive and managing a Government and an economy is not like presiding over the finances of a single-issue pressure group. That is why the Executive is supporting 350 new or enhanced public transport services through the rural transport fund, investing tens of millions of pounds in improved transport infrastructure through the rural Scotland fund, and investing record sums in lifeline services to remote island and mainland communities. Last but not least, the Executive is making the case for Scotland's rural communities in its dealings with the UK Government on tax, as on other matters.

We are working in partnership, rather than manufacturing sterile confrontation. The Executive is focused on making a real difference, and is determined to use the Parliament's power to improve the lot of our people, whether they live in rural communities or urban conurbations.

The SNP, as Janis Hughes highlighted, has once again used its allotted time to choose any issue in an attempt to drive a wedge between us and Westminster. As I have stated, we will continue to work with our colleagues at Westminster to the benefit of the people of Scotland.

There are interesting opportunities in expanding the availability of liquid petroleum gas; that was welcomed by Jamie McGrigor. That will offer huge cost reductions to motorists who acquire LPG vehicles or convert their existing ones. The Executive has made it clear that grants will be available for the installation of the necessary facilities. I understand that Brian Wilson, the Minister of State at the Scotland Office, has had extremely promising discussions with one of the major oil companies about expanding the availability of LPG in the Highlands and Islands. That is the sort of practical action that residents of that area want.

Again, we have heard contradictions and confusion on the SNP benches, which were ably highlighted by Maureen Macmillan, Cathy Jamieson and others. Duncan Hamilton wants to increase prices in urban areas to match those in rural areas. Fergus Ewing speaks of derogation from EU rules, thus raising false expectations, and does no service to the people of the Highlands and Islands.

Last, but certainly not least, Mr MacAskill tells us that he is still looking for the best solution to the problem of fuel prices in rural areas. If Mr MacAskill and his colleagues in the SNP were to take a hard look at what the Executive is doing to increase public transport provision in rural communities, I have no doubt that he would find some assistance in his search.

12:12

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Every day since I was elected to Parliament, I have received representations from constituents and other people throughout Scotland about the iniquity of the level of fuel tax. There has been recognition, in this somewhat tetchy and ill-tempered debate, that severe problems follow directly from that.

I will begin with a few facts, which I think illustrate the extent of the problem. First, the fuel duty tax per litre in the UK is at present 48.82p, or £2.22 per gallon, which is the highest rate in Europe. Denmark and Norway have tax rates of 33p per litre, and Greece has a tax rate of around 20p. Scotland is Europe's major oil producer; as far as I am aware, the only type of oil that is produced in Greece is olive oil.

The bitter irony that is faced daily by my constituents in the Highlands and, increasingly, by motorists in every part of Scotland, is that Scotland—and Britain—has been singled out, of all the nations in the world, to have the highest tax and the highest fuel costs. For me, the interesting thing about this debate is that not one Labour MSP has said that there is anything wrong with that, just as at Westminster not one Labour MP from Scotland has had the guts to rebel on this issue and to speak up for Scotland, instead of following orders from Tony Blair.

Mr Tosh: Will Mr Ewing give way?

Fergus Ewing: Yes. on the basis that Murray Tosh might make a better defence of the Labour party than have members on the Labour benches.

Mr Tosh: I am sure that I could, but Fergus Ewing will forgive me if I do not try. Given what he has said, is not it curious that the SNP has not lodged a motion that is designed to remedy the situation? The SNP motion focuses only on public services. Why does not the SNP have a comprehensive strategy that is costed, defined and explained? Why am I still waiting for an answer to the question that I asked Kenny MacAskill?

Fergus Ewing: Murray Tosh might not know this, but I am pleased to say that when the matter was debated in Westminster, the SNP group voted against fuel tax increases in Scotland, while the Labour group voted for them.

One of the most iniquitous effects of having the highest fuel tax in the world is the impact on low-income families. According to one study, the total cost of motoring to a family in the Highlands and Islands is £50 a week. I remember well how the Labour party complained about the poll tax. The cost of the poll tax was about £10 a week, but Labour's fuel tax is about £50 a week for a

family—that is five times worse. Why cannot we hear a single Labour member speaking out about the fuel tax, which is Labour's poll tax?

I am doing my best to attract interventions from the Labour benches, Presiding Officer, but no Labour members are rising. The Labour benches are static.

The Presiding Officer (Sir David Steel): We are running out of time, so please press on.

Allan Wilson *rose*—

Fergus Ewing: Here is a Labour defender.

Allan Wilson: Given Fergus Ewing's stated opposition to the fuel duty escalator and fuel tax, why did the SNP build the revenue implications of that tax into its budget for a so-called independent Scotland?

Fergus Ewing: Not for the first time in the debate, fiction seems to be creeping in. Janis Hughes contended that the SNP is a member of the European Federation of Green Parties. That is untrue, as is Allan Wilson's allegation.

I will answer the major point that was raised by Alasdair Morrison. He asked how we would raise the money. Alasdair Morrison—although he did not say this explicitly—argued that if our fuel duty were not the highest in the world, that would somehow result in a loss of revenue. I remind Alasdair that a couple of weeks before the election, a major haulier in my constituency went out of business. I had a two-hour meeting with the haulier to find out why and he said, "I cannot pay the fuel tax and the Labour Government is driving me out of business." The result is that the Exchequer lost all the income tax from that business, all the pay-as-you-earn contributions, all the corporation tax, all the fuel tax and all the vehicle excise duty.

If the Executive does not believe me, it should listen to the Road Haulage Association (Scotland) Ltd. That organisation told me this morning that lorries that travel from mainland Europe to the UK do not buy fuel in the UK. I say to Alasdair Morrison that it is not exactly rocket science—those hauliers do not buy fuel in the UK because the Government has made it too expensive. The hauliers can carry enough fuel to travel 2,000 miles. They do not spend a penny piece on fuel in the UK. It is about time that the minister started to listen to the Road Haulage Association.

I will take another unionist intervention.

Mr Davidson: Various SNP members have spoken at length about a reduction in the price of fuel to the public sector. At last, the SNP is beginning to recognise that the wealth creators of Scotland need help. If they do not pay any tax, there will be no public services.

Fergus Ewing: I know that it is a novel idea to some Conservative members, but I am responding to the debate and I am addressing all the red herrings that were introduced by David Davidson's unionist colleagues.

I turn to Rhoda Grant's point about the Office of Fair Trading and the general issue of fuel prices in the Highlands and Islands. For decades, fuel prices in the Highlands have been higher than they are elsewhere. Mary Scanlon fairly pointed out that that now also applies in other parts of rural Scotland. What has been done about that issue? Nothing. Over the years, the matter has been referred to various so-called regulatory bodies, which have done nothing. The Office of Fair Trading is dealing with the most recent referral, which was made in January 1999. Its report was supposed to be out by Christmas; it is not yet out, but is now supposed to be out by this month. What will happen then? Will a refund be paid to the Highland motorists who have been fleeced by the Labour party? No chance. Will there be any action? There can be no action for a further 10 months, according to a letter that I have received from John Bridgeman, because even if there is a finding of profiteering and unfair trading, the issue must be considered by the Competition Commission. Once the commission concludes its investigation, perhaps some time next April or May—who knows, it may take much longer than that—it must take some sort of action. I repeat the question that Kenny MacAskill asked—if we can take action to reduce the price of cars, why cannot we take action by legislating to bring down the price of fuel? I would take any answers now, but apparently there is none. I am trying to stimulate a debate, but it is difficult.

Earlier in the debate someone mentioned a lawnmower. It seems to me that there is a strong resemblance between the Executive and a lawnmower—it moves very slowly, and there are lots and lots of cuts.

In the budget, Gordon Brown said:

"Today inflation is 2.2 per cent."—[*Official Report, House of Commons*, 21 March 2000; Vol 346, c 858.]

He then put up fuel duty by 3.3 per cent and put up pensions by 1.1 per cent. Can somebody lend that man an abacus? What did Gordon Brown say when his Treasury department wrote to a constituent of mine to try to explain what he had done? Did he say that he had put up fuel taxes, or that he had hiked fuel taxes for the fourth time in three years—quite a feat even for Labour? No—apparently, there has not been a rise in fuel tax. We have been labouring under a misapprehension. It was not a rise—it was an automatic revalorisation. I thought I should give Labour members the script, as this is what they will have to try to sell at the Westminster elections:

Labour did not put taxes up—we had an automatic revalorisation.

Sometimes in life, things become suddenly clear. What has become suddenly clear to Scots is that if they want somebody to fight for Scotland, to stand up to Gordon Brown and Tony Blair, and to stand up for what the people believe, they should not vote Labour, but should vote SNP. I think that we will do well at the coming elections.

Scottish Criminal Record Office

The Presiding Officer (Sir David Steel): I am afraid that we are running a bit behind time. I call the Deputy First Minister to make the emergency statement that has been requested.

12:23

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): On 24 February, the First Minister, in response to a question from Allan Wilson, informed the Parliament that in response to public concern about the case of Shirley McKie, Her Majesty's chief inspector of constabulary, William Taylor, was to commence an inspection of the fingerprint bureau of the Scottish Criminal Record Office, which would include an examination of the circumstances of the McKie case. I provided more detail in a reply to a question from Mike Russell on 22 March.

Members may recall that the McKie case concerned the acquittal of Shirley McKie who, as a constable of Strathclyde police, had been charged with perjury. The charge related to an allegation that Shirley McKie had visited a crime scene to which she had been refused entry. An important element in the case against her was evidence provided by the Scottish Criminal Record Office that the mark of a fingerprint found at the crime scene matched her fingerprints. During the trial, expert witnesses called by her defence testified that the crime scene mark and the fingerprints of Shirley McKie did not match and that the crime scene mark was not made by her. She was acquitted. That raised doubts about the accuracy of the SCRO's identification. In response to those concerns, the Executive asked Mr Taylor to bring the inspection forward.

The time scale for the inspection was three months. I was informed yesterday by Mr Taylor that the inspectorate's work is now complete and that he expects the report on his inspection to be published in six to eight weeks' time. However, the inspection included findings in relation to the Shirley McKie case and, having regard to the position of Shirley McKie and her family, who have pressed for an independent inquiry, and to the public interest in this case, Mr Taylor felt that he should announce the findings that were emerging from the inspection as soon as he was in a position to do so. They were announced earlier this morning.

Arrangements were made to brief the McKie family and staff at the SCRO as part of this process. I know that a number of members are concerned about the McKie case for constituency reasons, and of course it is of wider interest to us

because of the importance of the SCRO in detecting crime. It is for that reason that I felt that we should inform members of the findings at the earliest opportunity, although what I am able to say is necessarily constrained by the fact that we do not have the full report.

Her Majesty's inspectorate of constabulary was assisted in its work by fingerprint experts from jurisdictions outwith Scotland. Three were asked to provide independent advice on fingerprint methodology and processes. Two of them were asked to give an expert opinion on the McKie case. The opinion of those experts was that there was sufficient detail in the crime scene mark involved in the McKie case to make a fingerprint identification, but that that mark had not been made by Shirley McKie.

In addition to announcing this finding, Mr Taylor indicated that the inspection has led to a number of other findings. They include the need for improvements in training, testing and quality assurance measures at the SCRO; consideration of a centralised fingerprint service for Scotland, which would assert the corporate identity and independence of the SCRO; a planned move towards the introduction of a different evidential standard for fingerprints in Scotland; strengthened administrative support for the fingerprint service; and the need to set up a task force to take forward the changes that the inspectorate recommends. In summary, Mr Taylor concludes that at present the SCRO fingerprint bureau

"is not fully effective and efficient."

Members will appreciate the seriousness of these findings. Fingerprint evidence is a vital tool in detecting and prosecuting crime and Scottish forces must be able to rely on fingerprint services that meet the highest standards. Following a briefing from Mr Taylor, I was able to discuss his findings with Sir Roy Cameron, secretary of the Association of Chief Police Officers in Scotland, yesterday evening. Sir Roy told me that ACPOS has decided to set up a review group under its incoming president Mr William Rae, the chief constable of Dumfries and Galloway constabulary. That review group is to take forward work on all the findings. It will discuss its work with the SCRO executive committee, which is responsible for overseeing the work of the office. A special meeting of that committee is being arranged to consider the findings. We in the Scottish Executive will do what we can to assist, although all of us will wish to have the opportunity to study the full report when it is published in deciding what more may need to be done.

Clearly, the findings may be felt to raise issues in relation to other cases. I have discussed the matter with the Lord Advocate, who is here today. Presiding Officer, with your permission he will be

willing, at the end of questions, to respond to questions that fall within his responsibilities.

I am sure that all members will share our concern that the SCRO fingerprint bureau should, in the terms the inspectorate uses, be “fully effective and efficient”. In his findings, Mr Taylor emphasises the dedication and commitment of SCRO staff working under high demand, but clearly that is not enough in itself. We will play our part in providing the essential elements that police forces must have in the fight against crime.

Michael Russell (South of Scotland) (SNP): I thank the Minister for Justice for making the statement and having the courtesy to discuss it earlier in the day. Shirley McKie and her father are in the gallery today to hear this statement. I hope that it is the end of an appalling period. The only person who has apologised to Shirley McKie in this whole saga over the past three and a half years is the judge who tried her. He said at the end of her trial:

“I would like to extend to you my respect for the obvious courage and dignity which you’ve shown throughout this nightmare. I very much hope you can put it behind you. I wish you all the best.”

I would like to hear the Minister for Justice make a similar statement today and apologise to her and her family for three years of torment, so that she can start to put it behind her.

Will the Minister for Justice guarantee that when Her Majesty’s inspectorate of constabulary’s report is published, he will bring it to the chamber for a full discussion and debate? It will be published during the recess, but as soon as possible after the recess it should be debated in this chamber, because it goes to the heart of the Scottish criminal justice system.

What will happen today—and I mean today—to Charles Stewart, Hugh MacPherson and Fiona McBride? They are fingerprint officers in the Scottish Criminal Record Office who gave evidence under oath in the case of Shirley McKie—evidence that we now know turns out to be perjured. What will happen to them today?

Mr Wallace: It is the intention that the report should be published in full. I hear, with some sympathy, Mr Russell’s call for a debate. The Minister for Parliament is in his place; indeed, Mr Russell too is a member of the Parliamentary Bureau. I am sure that when the Parliament returns after the recess, those matters can be progressed by the bureau.

With regard to the persons Mr Russell has named, on the basis of Mr Taylor’s findings it would not be appropriate to do anything today. The executive committee of the Scottish Criminal Record Office and the employing authority will want to consider the full details of the report, and

the appropriate action, when they are in possession of the full facts and, indeed, in the light of the outcome of the APCOS presidential review—to which I have referred—which will be led by Chief Constable Rae. If any conduct issues are identified, they will be dealt with appropriately.

Mr Russell asks about an apology. I am sure that everyone in the Parliament recognises that this case has caused great distress to Shirley McKie and her family. I very much regret that and hope that the action we have taken to set up the inspector’s inquiry and to announce the key finding at the earliest possible moment will reassure Shirley McKie and her family of our good intention to see that effective action is taken to remedy deficiencies in the present system.

Phil Gallie (South of Scotland) (Con): I identify with many of Mike Russell’s comments and offer my congratulations—if that is in order—to Shirley McKie and her family, who have tenaciously pursued an issue that they considered to be a great injustice to Shirley. The verdict reached in the court, when the judge commended her tenacity and integrity, has shown that to be the case. I would like to think that the senior police officers might have recognised that.

This is a great loss to the police in Scotland of someone who showed such integrity—given the pressure she was put under—by denying that the fingerprint was hers. I believe that there is a place for her back in the police force, if that is her wish. I ask the minister to take that forward.

I condemn the actions of ministers and the former Lord Advocate, who dug their heads into the sand on this issue. The minister suggested that he initiated this inquiry, but in fact it was initiated after a considerable campaign by members. The Lord Advocate should have considered the facts long before this and determined that an inquiry was needed.

Mike Russell makes a fair point on the Scottish Criminal Record Office. There is either a level of dishonesty there or a total lack of training and ability. The latter would give me real concern, given the effects it could have on the justice system. Although Mr Taylor has not referred to the situation with respect to individuals compounding one another’s mistakes, I ask the minister to consider that urgently and to ensure that that is made clear to the public, so that the justice system can regain its confidence.

Mr Wallace: I share Phil Gallie’s view that the criminal justice system must have the confidence of the public. That is why it is important that the findings of Mr Taylor’s inquiry, when they are fully published, will be given the utmost detailed and serious consideration—I assure Mr Gallie of that.

It is also important that, ahead of full publication

of the report, the Association of Chief Police Officers in Scotland has instructed a presidential review to carry forward an inquiry into some of the specific points that Mr Taylor has mentioned. Mr Gallie will recognise that, notwithstanding the information Mr Taylor has reported, ACPOS and the Executive have responded as quickly as we can and are doing the things that are immediately within our power to do.

Allan Wilson (Cunninghame North) (Lab): I welcome the Deputy First Minister's statement and I await the publication of the study and the full report with considerable interest. Has the Lord Advocate considered the related case of my constituent, Mr David Asbury, in whose case the identification or misidentification of fingerprints played a crucial part? What implications will today's statement have for his case?

Mr Wallace: That is a matter for the Lord Advocate.

Michael Matheson (Central Scotland) (SNP): I am sure that the minister is aware that the interim report could have major, wide-ranging implications for the Scottish criminal justice system. Can the minister indicate how many cases may now be affected as a result of the interim report? Given that the McKie case happened three years ago, could it be that all court cases in which fingerprint evidence has been used in the past three years might have to be reviewed? There could also be implications for cases that predate the McKie case.

I understand that this may be a matter for the Scottish Criminal Cases Review Commission, but that body has heard only one case so far and there would be major implications for its resources if it were to be inundated with reviews. Will the minister clarify how the commission is expected to deal with an influx of such reviews?

The report highlights fundamental failings in the management structure of the fingerprint bureau in the Scottish Criminal Record Office. It raises questions about training, quality assurance and other forms of testing. Given that Mr Taylor has taken the unusual step of publishing an interim report, will the minister confirm that he is willing to take interim measures to restore public confidence in the fingerprint bureau, if necessary by taking action against those at senior management level? I also remind the minister—

The Presiding Officer: In fairness to other members, Mr Matheson, I think that you have asked enough questions.

Michael Matheson: I have only one more point to make.

The Presiding Officer: Do so very quickly.

Michael Matheson: I would like to remind the

minister that a memo from the head of the fingerprint bureau indicated that he was

“satisfied with the integrity of the experts . . . in this case”.

On that basis, there is a need to act now, rather than waiting for the full report to be published.

Mr Wallace: I do not have figures for the number of cases that might be affected by the report, but I remind Michael Matheson that although it is advanced in many cases, fingerprint evidence is not always the turning point on which a prosecution hangs. The Lord Advocate may be able to add to that answer.

One of the first questions I asked was whether there is any action ministers should take immediately on the management structure of the fingerprint bureau in the light of Mr Taylor's report. As Michael Matheson knows, Mr Taylor is there to advise ministers. I was reassured that there is nothing ministers ought to do immediately, but we must consider the full report carefully when it is published. Many of the important points that Mr Taylor has raised are being taken forward immediately by the ACPOS review. Mr Matheson will be aware that all eight chief constables are members of the SCRO's executive committee.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): What directions will be given to the chief constable of Strathclyde about the findings of Mr Taylor's report? What are the implications for all the police officers who were involved in the investigation of the Ross murder inquiry in Kilmarnock?

Mr Wallace: It would be wholly inappropriate for ministers to give directions to chief constables, as chief constables have authority over operational matters in their areas. The chief constable of Strathclyde, and all chief constables, will focus clearly on this issue. They have acted promptly in setting up a presidential review.

Lord James Douglas-Hamilton (Lothians) (Con): Does Mr Wallace accept that police officer Shirley McKie has been treated most unjustly and most unfairly in this matter? Can he give an assurance to the Parliament that, in the interests of justice and fairness, full restitution will be made to her?

Mr Wallace: That is not primarily a matter for ministers. I understand that there are some outstanding issues between Shirley McKie and Strathclyde police. Those matters will have to be pursued there. It will be for Shirley McKie and her legal advisers to consider how they would best wish to proceed in the circumstances, especially in the light of this report.

Mr John McAllion (Dundee East) (Lab): Many members have constituents who have serious concerns about how the Crown Office and other

legal authorities have handled evidence in individual cases. If the finding is that the work of the SCRO fingerprint bureau is not trustworthy, can the minister say whether that serious and disturbing finding will influence the Lord Advocate's present policy of refusing to release files and forensic reports in cases where verdicts have been passed?

Mr Wallace: I hope that I have given a clear indication of the seriousness with which we take this matter. As Mr McAllion well knows, prosecution and preparation for prosecution are matters for the Lord Advocate. I am sure that he will deal with that point when he responds.

The Lord Advocate (Colin Boyd): I share the Deputy First Minister's concern about the implications of this report.

The prosecution service, for which I am responsible, must be able to rely on and have confidence in the fingerprint evidence that is presented to the Crown by the police.

I make it clear to members that the Crown acted in good faith in prosecuting Shirley McKie. It relied on the evidence that was presented to it by officers of the SCRO. Nevertheless, I very much regret that Shirley McKie and her family underwent this ordeal. I pay tribute to her tenacity and that of her family in pursuing this matter. I recognise that the Crown may have lessons to learn from this episode. I am determined that we should do so. I listened to what John McAllion said about that.

I have instructed that in all current and future cases in which fingerprint evidence is provided by the SCRO and is submitted to the procurator fiscal, an independent external check of the evidence will be carried out by another fingerprint bureau—there are other fingerprint bureaux in Scotland—such as Lothian and Borders police and the police forces in Tayside, Central Scotland and Fife. That will be done prior to trial.

So far as the David Asbury case is concerned, I can tell Parliament that, in light of recent public concern, I asked officials to check how many outstanding appeals are based on allegations of fingerprint misidentification. No such cases were found. David Asbury was convicted of murder at Glasgow High Court on 3 June 1997; Shirley McKie was called as a witness. An appeal against conviction is pending, but no appeal ground has been lodged challenging the fingerprint evidence.

Nevertheless, in light of the concern, some time ago I instructed that independent experts examine the fingerprint evidence that was led at that trial. Arrangements were made recently to have the productions re-examined to check the fingerprint identifications, which were made by the SCRO, in that case. That identification will take place as soon as possible and the result will be

communicated to Mr Asbury's solicitors.

Like the Deputy First Minister, I look forward to seeing the full report from Her Majesty's chief inspector of constabulary as soon as it is published. At that stage, I will consider what further action may be necessary.

Business Motion

The Presiding Officer (Sir David Steel): I apologise to Mr McCabe and Mr Galbraith: I had intended to take their motions before the statement. We move now to motion S1M-1035, in the name of Tom McCabe, setting out the business programme.

Motion moved,

That the Parliament agrees

(a) the following programme of business—

Wednesday 28 June 2000

2.30 pm Time for Reflection

followed by Committee Business – Finance Committee Debate

followed by Executive Motion on Written Agreements on Budgeting Process

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business – debate on the subject of S1M-380 Johann Lamont: Cross-examination During Sexual Crimes Trials

Thursday 29 June 2000

9.30 am Ministerial Statement on the Framework for Economic Development in Scotland

followed by Parliamentary Bureau Motions

followed by Stage 3 Debate on the Education and Training (Scotland) Bill

followed by Ministerial Statement on the Active Communities Initiative

followed by Business Motion

2.30 pm Question Time

3.10 pm First Minister's Question Time

3.30 pm Executive Debate on Forward Strategy for Scottish Agriculture

5.00 pm Decision Time

followed by Members' Business – debate on the subject of S1M-999 Linda Fabiani: 999 Emergency Calls

Wednesday 5 July 2000

9.30 am Time for Reflection

followed by Parliamentary Bureau Motions

followed by Stage 3 Debate on the National Parks (Scotland) Bill

2.30 pm Executive Business

5.00 pm Decision Time

followed by Members' Business – debate on the subject of S1M-756 Allan Wilson: West Kilbride: Scotland's Craft Town

Thursday 6 July 2000

9.30 am Ministerial Statement

followed by Executive Debate on Modernisation in the NHS

followed by Business Motion

2.30 pm Question Time

3.10 pm First Minister's Question Time

3.30 pm Executive Business

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

(b) that the Equal Opportunities Committee reports to the Justice and Home Affairs Committee by 11 September 2000 on the Census (Scotland) Amendment Regulations 2000 (SSI 2000/194); and

that the Transport and the Environment Committee reports to the Local Government Committee by 4 September 2000 on the Environmental Protection (Waste Recycling Payments) (Scotland) Regulations 2000 (SSI 2000/185)

and, (c) that Stage 1 of the Transport (Scotland) Bill be completed by 14 September 2000.—[*Mr McCabe.*]

The Presiding Officer: No member has asked to speak against the motion. The question is, that motion S1M-1035, in the name of Tom McCabe, be agreed to.

Motion agreed to.

Care Standards Bill

The Presiding Officer (Sir David Steel): The next item of business is consideration of motion S1M-975.

Motion moved,

That the Parliament endorses the principle of a power to make an Order in Council to vary the functions of the Central Council for Education and Training in Social Work, a cross-border public authority, as set out in the Care Standards Bill and agrees that the relevant provision to achieve this end in the Bill should be considered by the UK Parliament.—[*Mr Galbraith.*]

The Presiding Officer: The decision on this motion will be taken at decision time.

Milestone House Hospice

The Presiding Officer (Sir David Steel): We move now to members' business, which is a debate on motion S1M-913, in the name of David McLetchie, on Milestone House hospice. The debate will be concluded after 30 minutes without any question being put. Again, I thank Mr McLetchie for agreeing to defer this debate to allow for the emergency statement.

Motion debated,

That the Parliament notes with concern the proposal to close Milestone House in Edinburgh, Scotland's only hospice for AIDS sufferers, and urges the Scottish Executive to initiate discussions with Lothian Health Board, the City of Edinburgh Council and Waverley Care Trust with a view to devising a funding package which recognises that it is a national facility equipped to meet the needs of patients and their families.

12:46

David McLetchie (Lothians) (Con): I am delighted that my motion on Milestone House has been chosen for debate today. I am gratified by the level of support that it has attracted from members. In particular, I welcome the support of Margo MacDonald and acknowledge her motion on the wider issue of a management strategy for HIV and AIDS, which is complementary to my motion.

I am delighted to see in the chamber Michael McMahan, who chairs the cross-party group on palliative care, which has got off to an excellent start. I welcome the fact that Iain Gray will respond for the Executive, not only as the Deputy Minister for Community Care but as the constituency MP for Edinburgh Pentlands, in which Milestone House is located.

I visited the hospice in the Easter recess and can vouch for the fact that it is a unique national health care facility, with committed staff, who provide an exceptionally high standard of care to their clients.

Waverley Care Trust, which runs the hospice at Milestone House, was established in 1989 as a direct response to the HIV epidemic in Lothian, and currently manages three projects. Milestone House, which opened in 1991, operates as a 16-bed residential unit, taking patients from across Scotland, although predominantly from Lothian. It is run at a cost of just under £1 million per annum. The trust also runs Solas HIV and AIDS information and resource centre, in which several services operate, such as child care, an arts programme and counselling. The trust also runs a befriending buddy service. The trust works annually with more than 400 people who are infected with HIV, and with up to twice that number

of people who are affected by the virus, such as partners, children and other family members.

The key statutory partners—Lothian Health, City of Edinburgh Council and the trust—have been carrying out a review of the future of Milestone House since late 1997. The review highlights the welcome fact that the death rate for AIDS and HIV sufferers has reduced significantly, thanks to the introduction of combination drug therapies. In that light, the review proposes a restructuring of the services that are provided at Milestone House. There is to be an eight-bed residential unit, a palliative care outreach team and a day care service. However, the costing and siting of those services, which will replace the current service provision at Milestone, has still to be determined.

I share the trust's view that the new model is a responsible response to changing circumstances and that the trust, rather than a new provider, is best placed to deliver the changed programme of care. The review recommends that the services that are run at Milestone should cease by the end of the financial year 2000-01, provided that alternative respite services can be developed and implemented. One of the arguments for that change would be that money that is tied up in Milestone could be better deployed in an extension of combination therapies.

Although I certainly agree in principle with the desire to invest more in those treatments, which have been remarkably successful in recent years, that does not alter the fact that, in the judgment of many, the timetable for the closure of the hospice is far too short. For some people, the new drug treatments have come too late. It may be a problem for only a limited period of time, but those people, in my judgment, deserve the type of specialist hospice care that Milestone can provide. A time scale of two or three years would be far more appropriate for them than immediate closure.

A longer time scale would also enable further evaluation of the longer-term success of combination drugs and would recognise that while the introduction of new drugs has meant, thankfully, that AIDS and HIV sufferers are now living longer, they require a longer period of support. We must also acknowledge that, sadly, the new therapies and treatments do not work for everyone and that people may still require the type of specialist care provided at Milestone.

A longer time scale would give an opportunity to examine the issues in greater depth. I hope that Milestone House is chosen as the centre to deliver the new model of care. Staff at Milestone have the experience, ability and flexibility to deliver the service better than any new provider. The fact that no alternative site has yet been identified suggests that identification of a new centre may prove difficult to achieve within the time scale envisaged.

The staff at Milestone have been, in a sense, under review for the best part of three years. They are naturally anxious that the process be concluded as soon as possible and that Milestone's future be secured at least in the medium term. The staff accept that the service that they offer must change in the light of changing circumstances, but they believe that they have proved their adaptability, demonstrated by the expertise that they have acquired in dealing with hepatitis C as well as HIV and AIDS.

Geographically, Milestone House provides an excellent site for the services. It is only 20 minutes from the city centre and is readily accessible to patients who live outwith Edinburgh. For those reasons, I very much hope that the Scottish Executive will be prepared to recognise the valuable work that is done at Milestone and will seek to retain the services for the benefit of the country as a whole.

One method of ensuring that that happens is to ensure that the funding mechanism reflects Milestone's national status. Currently, 44 people from elsewhere in Scotland use Milestone, 23 of them from Glasgow. Among the correspondence that I have received on this subject since I lodged the motion is a most interesting letter from a nurse based at Gartnavel general hospital in Glasgow. She wrote to tell me about the disappointment felt by 10 patients from the Glasgow area who had been booked into Milestone House for one or two-week respite care periods in May. The service was withdrawn at short notice, leaving a number of the patients disappointed and two of them suicidal at the prospect of cancelling the period of respite care.

The nurse also told me that in recent months she had cared for three terminally ill patients for whom she had endeavoured, unsuccessfully, to find beds in hospices in and around Glasgow. The hospices had said that they would be willing to take the patients, but beds never became available and all three people died in the Brownlee centre at Gartnavel. She writes:

"My feeling is that fear and prejudice about HIV and AIDS still exists and that they were not offered a bed on these grounds. So there is no suitable alternative to Milestone."

The current review proposals would mean that the Lothian-based residential unit would be for Lothian-based residents only. That needs to be examined. I hope that the Scottish Executive will be prepared to take the matter up in discussions with Lothian Health, City of Edinburgh Council and Waverley Care Trust as part of a wider review of HIV and AIDS strategy.

All those who have cared for patients and clients at Milestone House, their families and staff look forward to hearing what the minister has to say in response to the motion.

12:54

Kay Ullrich (West of Scotland) (SNP): I am happy to support David McLetchie's motion. As he said, Milestone House was first opened in 1991 to provide residential respite, palliative and terminal care for people with HIV-related illness. Since that time, great advances have been made, thanks to the advent of combination therapy. People who were expected to die a few years ago are still alive today. Life expectancy for HIV-positive people continues to improve.

Milestone House has adapted its service accordingly. Emphasis is put on providing respite care and support. Surely Milestone is the ideal setting for a period of respite. As David McLetchie said, it is only 20 minutes from the city centre for those who live in Edinburgh and five minutes from the bypass for those who live firth of the city. Let us not forget that 20 per cent of registered service users are from outwith Lothian. Members should make no mistake—it is a national facility.

Suggestions from the on-going review seem to favour offering respite in the community. However, imagine being an intravenous drug user, with all the implications that that carries: poor housing, chaotic lifestyle and social exclusion. Would anyone's idea of respite be staying in that situation, or would it be going to a place that is tranquil, where people offer support and understanding? I cannot put it better than the words of one young man who said of Milestone House:

"Your background doesn't matter in here, all the trouble goes as soon as you come in the door."

The truth is that, as a result of the prolonged review, that precious facility is in danger of withering on the vine. Thanks to medical advances, death is not an immediate prospect for many HIV-positive people, but they still have to cope with the stigma, rejection, social isolation and, more than anything, low self-esteem. Milestone House provides support, care and, above all, a sense of belonging. That is something that cannot be measured in monetary terms. Milestone House is an oasis, a place to live and grow.

I will close with the words of another service user:

"When my time comes, I don't want to be looking at concrete hospital walls and through the glass of a hospital window. I would like the privilege of dying in Milestone, surrounded by the wildlife, the trees and the greenery. I couldn't think of a better place to die. For my sake, and for those who come behind me, please support Milestone."

12:57

Mrs Margaret Smith (Edinburgh West) (LD): I thank David McLetchie for lodging the motion, thus

giving members a chance to debate a very important national and local service.

We should acknowledge the work that has been done at Milestone House since it opened, the information provided by Solas and the support that has been given to the service by its contributors: first and foremost, the staff and supporters, including the families and the patients and clients. We must also acknowledge the funders, primarily Waverley Care Trust, but also City of Edinburgh Council and Lothian Health.

Everyone agrees that there is a need to review and reconfigure services for HIV and AIDS. As Kay Ullrich said, that is based on the happy fact that combination therapy has been successful. In 1986, there were 150 reported new HIV infections in Lothian and there were 80 deaths in a year. In 2000, the number of infections has come down to about 50 and the number of deaths has fallen to 13. The successes have impacted not only on death rates, but on the number of hospital admissions and on disease progression.

However, these are early days in the monitoring of the long-term impact of combination therapies and the needs that arise from that. There are differences in the way in which the disease progresses; some of the needs relate to dementia, which is induced by the illness, as well as other types of disease progression. The learning process is on-going in relation to the impact of combination therapies. Even the Lothian Health document says that the relatively recent introduction of combination therapies means that uncertainties remain as to their long-term efficacy. The same uncertainty remains about the long-term impact of those therapies. The Scottish Voluntary HIV and AIDS Forum compares the possible loss of Milestone House hospice to the closure of the London Lighthouse facility, which happened because the new combination therapies seemed to be working but was actually done in a hasty and ill-thought-out way.

Once a service such as Milestone House is lost, it is difficult to bring it back. We should think long and hard about how to reconfigure Milestone House to deliver the types of services that people need. Although those services are first and foremost about respite, they are also about working with people to give them the knowledge about how best to use the combination therapy drugs available. Without careful management, some of those drugs will lose their effectiveness.

Although some of Lothian Health's proposals should be welcomed, the questions for Waverley Care Trust and others are where and how those proposals will be delivered and how they will be funded. We all agree that it would be beneficial to have an HIV centre which is a single point of entry for information and services. Everyone wants

enhanced day care services; however, we also want good respite services. There is much to be welcomed in the review and we should not throw the baby out with the bath water on this issue.

The Lothian Health document also says that reconfigured services could be delivered in a reconfigured Milestone House with new funding arrangements. That is the nub of many of David McLetchie's comments. I welcome the fact that we are asking the Executive to consider the hospice as a national service and to examine whether it can bring some stability to the funding for Milestone so that responsibility for funding does not fall on the three component funders.

Echoing the points made by David McLetchie and Kay Ullrich, I must say that the important thing is to ensure that we try to deliver services that allow people with HIV and AIDS to live and die with dignity. I commend the motion to the Parliament.

13:02

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): I congratulate David McLetchie on securing today's debate and Margo MacDonald on bringing the matter to the Parliament's attention. Although David and I disagree on many of the great issues of the day, issues such as the one under debate today rightly cut across party divides.

I also want to thank David McLetchie for his recent letter to me on this issue, which contained a briefing from David Johnston of Waverley Care Trust. That briefing was very useful indeed, and I am pleased to say that I will have a chance to discuss with staff the issues outlined in the document when I visit Milestone House on Wednesday morning.

As convener of the newly formed cross-party group on palliative care, I want to add to David McLetchie's comments by stressing the importance of hospices to such care. We recognise that palliative care aims to maintain as far as possible and improve quality of life for patients and their families. We also recognise that palliative care is not only for people who suffer from cancer, but for people with advanced heart failure, motor neurone disease and AIDS.

Like many others involved in the cross-party group, I know from experience the importance of hospices to people in their care, their families and their friends. Having visited a number of hospices such as St Andrew's Hospice in Karen Whitefield's constituency of Airdrie and Shotts and familiarised myself with the impressive Maggie's Centre in Edinburgh, I know the high level of commitment and dedication of the staff involved and wish to pass on my full support and thanks to them on

behalf of all members in the chamber.

It is with that in mind that I have no hesitation in supporting David McLetchie's motion on Milestone House. Through talking to others with connections to the hospice, I am well aware of the valuable work carried out there, offering care and hospital support services to people with HIV and AIDS, affected carers and children.

I am also aware of the high quality of service offered by the hospice and of the expertise that has been built up there over the years. Indeed, on browsing the internet—something that politicians are all encouraged to do—I came across the Waverley Care Trust website. As its web address is quite long, instead of reading it out, I will pass it on later to any member who wants it. I was pleased to see that it had a 1999 profile.

In discussing the matter today, we must recognise that the needs of people with HIV and AIDS have changed since Milestone House was first opened, with fewer people needing terminal care for AIDS, principally due to the success of combination therapies. We must not forget, however, that there is more to Milestone House than terminal care. Palliative respite care, combination therapies, post-acute care and respite care for social, emotional, psychological and spiritual problems are also provided.

While the Parliament must recognise that it is appropriate that health decisions be taken at a local level, we must recognise that 20 per cent of Milestone's registered users are from outwith Lothian and that the wait for a decision since 1997 has not been good for the hospice, the staff, the service users and their families and friends. It would be inappropriate for this Parliament to dictate to those involved in the review. That said, however, I am sure that I speak for all members in calling for a speedy conclusion to the review while ensuring that full consultation with those involved with the hospice takes place.

It is important to maintain the critical mass of specialist multi-professional expertise that has built up at Milestone House. I urge Lothian Health, City of Edinburgh Council and Waverley Care Trust to work together to meet the changing needs of those diagnosed with HIV and AIDS and to fulfil the ambitions behind David McLetchie's motion.

13:06

Donald Gorrie (Central Scotland) (LD): It is important that a decision be reached as soon as possible. The uncertainty has had a bad effect on the staff at Milestone. The turnover of staff has been great and that has diminished the establishment's effectiveness.

Milestone should be viewed in a national

context. It is one of the facilities that should be offered nationally. It is not a solution to everyone's problems as combination therapy does not suit everyone, but it is an important part of the overall provision. There has been a lot of investment in the place and it would be a foolish waste of resources if that investment came to nothing. Michael McMahon mentioned other hospices. If there are spaces in Milestone, the other hospices could use them. We need to build up a national network of places such as Milestone that cover other ailments.

It is important that we press the Executive to ensure that there is a rapid conclusion to this problem. Our nation has a great capacity for taking ages to decide things, during which time all sorts of unfortunate things can happen. I am happy to support David McLetchie and I welcome the cross-party support for this issue.

13:08

The Deputy Minister for Community Care (Iain Gray): I have been aware of the work of Milestone House and Waverley Care Trust for many years and have visited Milestone House on a number of occasions and in a number of capacities, most recently last year as the Deputy Minister for Community Care. I have participated in a number of fund-raising events for Waverley Care Trust, although—unlike Margo MacDonald—I have never sung on its behalf, which is probably wise. As David McLetchie said, Milestone House is situated in my constituency. However, I must make clear the fact that it is as the Deputy Minister for Community Care that I speak today.

Milestone opened in 1991 as an 18-bed unit for men and women. It was developed as a resource to provide residential respite, palliative and terminal care for people with HIV-related illness. Interestingly, it was, I believe, the first of five AIDS hospices that were planned for Scotland but it was the only one that opened. It is designated as a nursing home, and the type and volume of the services that it provides are in response to the identified need and predictions for the course of HIV at the time.

That is true of the whole service package in Lothian for people with HIV-related illnesses, including other Waverley Care Trust initiatives such as the Solas resource centre and the clinical care that is provided by the NHS. The fact that those predictions were not realised has led Lothian Health, City of Edinburgh Council and Waverley Care Trust to review those services.

Through the effective communication of prevention messages to vulnerable groups, and through the introduction of new combination drug therapies, many fewer HIV patients develop AIDS.

People who have AIDS are now living with the disease rather than dying from it. In 1999, the number of new HIV infections was 157, the lowest number since 1994. In 1999, the number of diagnosed AIDS cases—and I think that Margaret Smith cited this figure—was 54 compared to 126 in 1993.

When Milestone House opened, it was also thought that HIV was more easily communicated than has proved to be the case. Therefore, at that time there was a perceived public health case for isolating AIDS patients. As the number of new AIDS cases has reduced markedly, and is likely to remain at that level, the case for sustaining a separate hospice is much weaker. At Milestone House, the number of people who require palliative care has dropped from more than 25 a year to around seven a year, and in the first nine months of 1999 there were only three deaths there, many fewer than there had been in previous years.

That is good news, but is no cause for complacency. Any let-up in the prevention and education work would run the risk of allowing such welcome trends to reverse. That is why we continue to invest in HIV prevention. The group that is reviewing HIV health promotion will report to me in the next few weeks. However, the changes in the understanding of the epidemiology of AIDS mean that health and social care provision must be reviewed and that the delivery of services must be modernised. With that in mind, Waverley Care Trust and its two funding partners have carried out two major reviews in recent years. There has not been a rushed review or consideration.

It is the responsibility of Lothian Health and City of Edinburgh Council to ensure that appropriate provision is made. They must ensure provision for those for whom combination therapy is ineffective or inappropriate, and they must ensure that that provision delivers both respite and palliative care as well as the range of other support that is required.

The recommendations from the second review since 1998, which are being considered, propose, as David McLetchie said, that services that are currently provided at Milestone House should cease on 31 March 2001, provided that appropriate alternative respite resources have been developed and put in place to ensure the minimum disruption to users. That recommendation was made on the basis that a more flexible model of respite care provision will be required to cater for the changing needs of different populations that are living with HIV—gay men, drug users and people who have been infected via heterosexual transmission. In practice, the new service means better targeted respite

support along with community-based services that are provided at home.

The proposed new service configuration was described accurately by David McLetchie, and I do not intend to go through it again. The service must be viewed alongside prevention and education work and alongside the clinical health care that, in Lothian, now requires a budget of more than £2.6 million for HIV and AIDS-related medicines.

Lothian Health and the local authority are actively trying to identify a suitable site for this new type of facility, the aim being to find a site that is more readily accessible to users than Milestone House. I echo some of the comments that have been made about the tranquillity of the current site. However, the appropriate site for the delivery of the service must be a decision for Lothian Health, the local authority and Waverley Care Trust. I repeat that it is my understanding that existing services at Milestone will continue until the new service provision is established. That is clearly an important assurance to give.

The new services will have to be funded according to the appropriate criteria for health and social work services. Waverley Care Trust will, in due course, agree the funding package with its partners. Those services are delivered by a partnership of Lothian Health, the council and the voluntary sector provider, which is Waverley Care Trust. I expect that to continue to be the case, but the detail of the package will depend on the configuration of services, which is rightly a matter for the partners involved.

I understand that the review team, which included Lothian Health, City of Edinburgh Council and Waverley Care Trust, is content with the outcome of the review. Last month, the council adopted the recommendations in principle, and Lothian Health will consider the review at its board meeting next week. People have called today for a swift conclusion to the review; I think that the demands in those calls will be met.

If the case for a specialist hospice provision in Lothian is not made, I do not think that the case for a national hospice in Edinburgh is made either. Research points to people preferring to remain in their own homes and to be as independent as possible. The thrust of thinking in community care generally is against services that take people far from home and family. However, I take the point that Milestone has been used by people from outside Lothian. Currently, the number of residents of Milestone from outside Lothian is around 11 per cent—one or two residents at any one time.

I also take the point that the residents have to have access to a proper mix of services. In that light, I have asked my officials to check with all health boards and their local authority partners to

ensure that, like Lothian, they have in place a proper mix of service provision for HIV and AIDS sufferers. It is their clear responsibility—as it is the responsibility of Lothian Health in Lothian—to have the right mix of services available to meet the needs of the users of those services. Needs change, and so do services. However, the principle of meeting needs does not change, and that is the principle to which we must hold as we consider this change in service configuration.

13:17

Meeting suspended until 14:30.

14:30

On resuming—

Question Time

SCOTTISH EXECUTIVE

Genetically Modified Organisms

1. Alex Johnstone (North-East Scotland) (Con): To ask the Scottish Executive whether it will review its guidelines on field trials for genetically modified crops in the light of the comments of the UK Minister for the Environment on 14 June 2000 regarding contamination and the distance between GM crops. (S10-2000)

The Minister for Rural Affairs (Ross Finnie): A review is already under way. The UK review of separation distances announced on 8 June will consider the adequacy of the existing arrangements. As I think the member is aware, the separation distances that are in place in relation to the farm-scale evaluations are intended to minimise the possibility of cross-pollination with adjacent crops.

Alex Johnstone: Is the review likely to be completed in advance of this year's harvest and will crops that are being grown within the current separation distance from existing GM crop trials be considered suitable for human consumption after the review?

Ross Finnie: The issue of when the examination will be completed is in the hands of those who are conducting it, I am afraid; I cannot force their hand, but they are very well aware of the need for urgency. They are also having to consider the precise circumstances under which the Advanta incident arose. Although the UK authorities are in contact with the Canadian authorities, we are having to press them for the relevant information. It will be difficult to conclude the review without that information, but the need for urgency is well understood.

Dr Sylvia Jackson (Stirling) (Lab): In the light of the revelation about the mis-selling of GM-contaminated seeds, will the minister say whether there is any thought of trying to get compensation from Advanta?

Ross Finnie: The question of compensation arises after a demonstration of loss. At present, the only persons who have been affected by the contamination of hyola are the farmers who initially planted it for commercial purposes. In law they are the only persons who have yet demonstrated loss and are therefore the persons to whom Advanta's loss adjusters are speaking to reach a settlement.

Mr Kenny MacAskill (Lothians) (SNP): Were no checks made at the scientific trial at Daviot when the scandal with Advanta's GM-contaminated seeds first broke? If not, why not and what sort of trial is it? If checks were made, why were we not told before now?

Ross Finnie: Mr MacAskill will understand that it is usual in this country when goods are bought that are allegedly fit for purpose for that to be taken in good faith. Until the incident in question, there was no instance of such GM contamination. I can only assume—and I cannot speak for those who are conducting the trial—that the purchase of a well-known variety of seed as the comparator crop was done in good faith. In terms of the timing, the Scottish Executive, in collaboration with the National Farmers Union, has been compiling a list of all those affected. It was in the course of doing so that we became aware that the Daviot trial was implicated. As soon as we became aware of that, we took action to check what the complications might be, as I have already announced.

Skye Bridge

2. Mr John Munro (Ross, Skye and Inverness West) (LD): To ask the Scottish Executive when it will publish DTZ Piedad Consulting's report on the Skye bridge which was prepared between May 1998 and June 1999. (S10-1972)

The Minister for Children and Education (Mr Sam Galbraith): Sarah Boyack is unavoidably away, as she is attending the Council of Environment Ministers. I can, however, confirm that the report is being published today. Sarah is sending a copy to Mr Munro and placing one in the Scottish Parliament information centre.

Mr Munro: I am sure that the minister will appreciate that the report is long awaited. Will he lend welcome support to Highland Council's decision to seek an opinion on whether there is a case for a judicial review on aspects of the Skye bridge? Will he ensure that his colleagues in the Executive take all possible steps to refute the suggestion that VAT should be applied to bridge and road tolls?

Mr Galbraith: As John Munro knows, VAT is a European issue and will be decided in Europe. The United Kingdom is pursuing vigorously that issue and we are of the view that we have a strong case. However, the European Court of Justice will make the final decision. The position of Highland Council is entirely a matter for that council.

Irene McGugan (North-East Scotland) (SNP): Given that Europe's most senior legal officer claimed that Britain is breaching European Union regulations by failing to levy VAT on the bridge tolls, I trust that the minister will concede that there is more than a fair chance that VAT will be

applied. Campaigners claim that more than 700 coaches a year no longer make the crossing to Skye, with a loss of revenue of at least £1 million annually for the island. The application of VAT could mean that tolls on the Skye bridge would rise to almost £100 for a return trip by coach. Will the Executive acknowledge that the toll regime is haemorrhaging away income and revenue from an already fragile economy? Does the Executive have the courage to act now, before the situation worsens?

Mr Galbraith: The answer is no. Irene McGugan talks about the number of coaches, but the number was falling for years before the bridge was built—[*Interruption.*] Members may not like that, but the fact is that the number of coaches was falling for years before the bridge was built, and the present situation is a continuation of that decline. [*Interruption.*] Settle down.

Irene McGugan did not acknowledge that the number of coaches on the Armadale ferry has increased. She must look at the picture in the round. It is incumbent on all members to bring to the chamber the truth, the whole truth and nothing but the truth.

Air Quality

3. Elaine Thomson (Aberdeen North) (Lab): To ask the Scottish Executive what action it is taking to promote better air quality in Scotland. (S10-2024)

The Deputy Minister for Community Care (Iain Gray): In January, the Minister for Transport and the Environment launched in the Scottish Parliament the revised, and overall more challenging, air quality strategy for Scotland. The revised strategy lays down air quality objectives and dates in relation to the eight pollutants of most concern to human health.

In addition, this year the Scottish Executive expects through the Scottish Parliament to implement European Union legislation on the sulphur content of liquid fuels and two directives on air quality, with the overall aim of further improving air quality in Scotland.

Elaine Thomson: I thank the minister for his reply. Does he agree with the findings of the recent Royal Commission on Environmental Pollution report and the Scottish Environment Protection Agency's "State of the Environment: Air Quality Report"? Those reports showed high levels of carbon monoxide, sulphur dioxide and nitrogen dioxide in Scotland's cities, particularly in Aberdeen, and demonstrated clearly the need for urgent action to curb the continued growth of car use in tackling congestion.

Iain Gray: Those are exactly the reasons why the air quality strategy to which I referred required

local authorities to review and assess air quality within their areas. Local authorities must ensure that areas of particularly poor air quality are dealt with. I understand that Aberdeen City Council is nearing the end of its air quality review, so it is too early to pronounce on the situation in that city. However, where an air quality objective is unlikely to be met, the authority will be required to declare an air quality management area and to draw up an action plan in order to remedy the situation.

Phil Gallie (South of Scotland) (Con): Will the minister acknowledge the huge benefits brought by the nuclear generation industry to the control of air pollution? Will he give an assurance that the Scottish Executive will underline the importance of that industry to UK ministers, so that they are not tempted to follow the environmentally unfriendly actions of the German Government?

Iain Gray: The key point is that the Executive will continue to consider air quality in the round. Many factors contribute to the problems of pollution, such as ozone, which is different from other particulate matter problems. Elaine Thomson pointed to traffic and congestion as being key contributors to our pollution problems and the Transport (Scotland) Bill will help us to take action on that. We must consider all the factors that contribute to poor air quality in order to produce a strategy that will improve the air in Scotland.

Roads (A701)

4. Ms Margo MacDonald (Lothians) (SNP): To ask the Scottish Executive whether the information provided by Midlothian Council regarding its proposals for the A701 upgrade is in the public domain and, if not, whether it can be made available to public scrutiny. (S10-1997)

The Deputy Minister for Local Government (Mr Frank McAveety): Documents relating to the notice of intention to develop are available for inspection at Midlothian Council's offices at Fairfield House, Dalkeith.

Ms MacDonald: I promise to tell the truth, the whole truth, and nothing but the truth if the minister will make Midlothian Council do the same in relation to the huge 50 ft by 50 ft crater that has opened up on the site of the proposed road. It probably calls for a geological survey, and I ask the minister to ask Ms Boyack—when she returns—to request one immediately.

Mr McAveety: To continue the search for truth, I point out that that is a matter solely for the local authority. I remind the audience that the local authority engaged in a substantial roadshow—[MEMBERS: "Audience?"] There are people in the gallery. The matter must be raised with Midlothian Council. It is appropriate that it is dealt with at that level.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): Is the minister aware that, in the local inquiry into the proposed Gowkley Moss biotechnology development, Midlothian Council gave information that appeared to indicate that the realignment of the A701 was not strictly necessary?

Mr McAveety: That matter is best dealt with directly with the local authority rather than through the Executive. Midlothian Council is responsible for the proposal and that is the best place to deal with it.

Carers

5. Alex Neil (Central Scotland) (SNP): To ask the Scottish Executive whether it will make a statement on the recent report by the Carers National Association Scotland on "Caring on the Breadline". (S10-1985)

The Deputy Minister for Community Care (Iain Gray): I am aware of the report, which focuses on benefits, pensions and employment opportunities for carers. The Scottish Executive is committed to supporting carers under its strategy for carers in Scotland but it has no function in relation to those reserved areas. The Executive is in regular contact with the United Kingdom Government on a wide range of matters, including carers issues, and I will ensure that the interests of Scottish carers are represented.

Alex Neil: Does the minister realise that carers in Scotland are fed up with lip service from Holyrood and London? They want action. Will the minister give a commitment that, in the one area where he has responsibility, he will implement the recommendation to abolish charging for essential, non-residential community care services? Will he make representation to the Secretary of State for Social Security to extend eligibility for the invalid care allowance to people aged over 65?

Iain Gray: It is not the case that we have delivered only lip service to carers in the past year. We have delivered a doubling of the resources earmarked for carers services and those resources are now—in discussion with carers—being applied to improving the range of services available for carers. We have also undertaken the biggest ever social services, Scottish Executive, Scotland Office campaign to identify hidden carers and ensure that they are put in contact with the services that they need.

Alex Neil: What about charging?

Iain Gray: One of those services is welfare rights advice to help carers to maximise their benefits and income. Charging for social work services is entirely a matter for local authorities, which can choose whether or not to charge. Some do and some do not. I am conscious, however,

that there is a great deal of inconsistency across Scotland in the way in which those charges are applied. The joint futures group is working with me—we meet again on Monday—and this is one of the matters that we are considering.

Elaine Smith (Coatbridge and Chryston) (Lab): When will the carers legislation working group, which was established last year as part of the Executive's strategy for carers, report on its findings? Will proposals to establish a legal right to respite for carers be included in that report?

Iain Gray: I thank Elaine Smith and acknowledge her interest in this matter, as expressed during the recent carers week. The carers legislation working group was one further aspect of the carers strategy announced to Parliament in November. We had a choice whether to pursue carers legislation quickly—everyone agreed that it was needed—or to do it in careful consultation with carers organisations. The organisations have taken the time to meet on a number of occasions to develop proposals for me. I have not set a deadline, but I expect their proposals to go out to public consultation later this year.

“Towards a Just Conclusion”

6. Mr Gil Paterson (Central Scotland) (SNP): To ask the Scottish Executive when it will publish “Towards a Just Conclusion”. (S10-2007)

The Deputy Minister for Justice (Angus MacKay): The action plan for “Towards a Just Conclusion” will be published on Monday.

Mr Paterson: It has taken a bit of time, but I welcome the document. A lot of people have been holding their breath about what it will say.

Reports in the press, emanating from the Executive, have covered cases of cross-examination. Does the minister agree that most people are concerned about the lack of balance in court cases? Can he give us a wee snippet of the action plan? Is he likely to tell us that, if an alleged victim's sexual history is allowed to be discussed in court, the sexual history of the accused would also be allowed to be heard?

Angus MacKay: We have made it absolutely clear that the Executive's policy is to end the practice of cross-examination of a victim by the accused in sex cases. We find such cross-examination inappropriate, offensive and unnecessary. We will be bringing forward proposals in Monday's announcement. I do not wish to go into that announcement in detail now, but it will cover that issue as well as cross-examination on sexual history. We have also undertaken to bring forward specific legislative proposals for the Parliament to consider after the summer recess.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): The Deputy Minister for Justice will know of concerns expressed at the Justice and Home Affairs Committee by Victim Support Scotland relating to the connection between the work carried out on “Towards a Just Conclusion”, the work of the victim steering group and the work of the Lord Advocate's feasibility study. Can the minister explain how those different strands of work on policy for victims are being joined up?

Angus MacKay: Those are separate pieces of work but, as Malcolm Chisholm suggests, they are inextricably linked. I do not want to go into too much detail—this forms part of Monday's announcement, which will include specific statements on how we will respond to recommendations on victims issues in “Towards a Just Conclusion”—but we will have things to say about our desire for specific actions to be taken now and in the medium term.

Oil Industry

7. Mr Duncan McNeil (Greenock and Inverclyde) (Lab): To ask the Scottish Executive what role it can play in encouraging better collaboration between oil producers and the oil fabrication industry in order to develop a long-term strategy for Scotland's oil fabrication industry. (S10-2014)

The Minister for Enterprise and Lifelong Learning (Henry McLeish): At the end of last year, in response to the problems facing the fabrication sector and at the request of ministers, Pilot—the successor to the oil and gas industry task force—set up a fabricators support group. That enabled the industry, Government, the fabricators and all other interested parties to work closely together to assess the issues facing the sector and to reach agreement on how a smaller, but still viable, fabrication sector could continue to operate.

Mr McNeil: I take it from the minister's response that he recognises the need to maintain our skills base and our production yards if we are to take advantage of any future orders. Is the minister prepared to keep the Enterprise and Lifelong Learning Committee up to date about the on-going discussions with those various parties?

Henry McLeish: The answer to the latter point is yes. I look forward to an early discussion with the whole committee or with individual members on this important subject.

Duncan McNeil is right to highlight the serious concerns facing the oil fabrication industry given the prospect that no large structures will be built in the United Kingdom in the years ahead. That is why it is vital that the new group works with Government and with the industry to do the two

things that Duncan McNeil has suggested: first, to ensure that we have the skills base; secondly, to ensure that we have capacity. I hope to be able to report to the Enterprise and Lifelong Learning Committee and have further discussion on the matter after the summer recess.

Mr John Swinney (North Tayside) (SNP): In the research work that the minister plans to do over the summer, will he consider comparable experience in other countries—such as Norway—that have discovered oil but have managed to sustain an oil fabrication sector and develop long-term benefit to their economy from oil? Does he think that a long-term development strategy for the oil fabrication sector would be assisted by a reduction in interest rates? How many representations has the Scottish Executive made to the monetary policy committee of the Bank of England arguing for a reduction in interest rates?

Henry McLeish: That could be described as a very wide-ranging economic question. On John Swinney's last point, we are always in discussion with our colleagues at Westminster about issues that affect Scotland and about which we feel passionately.

John Swinney is right to say that we need a long-term strategy to take us forward. We can learn from experiences elsewhere, but there is a huge problem in moving from traditional structures that employ large numbers of personnel to structures in which we must examine decommissioning, diversification, subsea submersibles and a range of new technology. If we are to survive in the future, we must go up the value-added chain. That is an objective that all members should support. We need to have dialogue in the chamber and I hope that the matter can also be discussed in committee.

Rhoda Grant (Highlands and Islands) (Lab): Will the minister agree to seek the establishment by oil companies of a contingency fund to assist areas that are dependent on fabrication but that experience a downturn?

Henry McLeish: I welcome Rhoda Grant's question because we are examining the possibility of an oil fund. Through Pilot—of which Helen Liddell is the chair and Brian Wilson is the vice-chair—three Scottish ministers are examining the matter. Such a fund will be discussed at a Pilot meeting. In the absence of such a fund at the moment, we are—through the partnership action for continuing employment programme—giving every support to existing employees. While we concentrate on gloom in the chamber, let us remember that Alasdair Morrison took part in the launch of 720 jobs in Forres. That is a new way forward, but we must assist the employees and the companies that face difficulties because of the Barmac rundown.

Mr David Davidson (North-East Scotland) (Con): Will the minister enlighten the chamber about his strategy for economic opportunity in the new phase that the oil industry is entering with decommissioning? There are great opportunities at the fabrication yards not only to build things, but to take things apart and, possibly, recycle them.

Henry McLeish: I am quite happy to accommodate that bit of instruction. The interesting point is that decommissioning lies ahead, but most of the big oil companies that have large production fields in the North sea are seeking to get every possible extra ounce out of the fields. They are doing that with new technology, but large structures continue to be used. Decommissioning is, I am afraid, some time off, but it is part of the agenda that we are addressing.

Genetically Modified Organisms

9. John Scott (Ayr) (Con): To ask the Scottish Executive whether the soya bean used in, and leaking in some cases from, breast implants is derived from genetically modified or non-genetically modified soya bean plants. (S10-1981)

The Minister for Health and Community Care (Susan Deacon): Medical devices are regulated at UK level by the Medical Devices Agency. I am advised by the agency that the soya bean oil that is used as filler for that type of implant does not contain genetically modified material.

John Scott: I thank the minister for that answer. Has she done all that she can to make ladies aware of the danger of leaking Trilucent breast implants? What research is the Executive undertaking to ensure that there are no potential long-term risks from those implants? Are there any other types of reconstructive surgery that use soya bean oil implants?

Susan Deacon: As I said, the regulation of medical devices is carried out at UK level, but the Scottish Executive co-operates fully in that process. It is in all our interests to ensure that any form of implant or medical device is as safe as possible.

Regarding the breast implants with which particular difficulties have been identified or which may give rise to difficulties, we have co-operated fully with the steps that have been taken by the MDA to ensure that information is disseminated throughout the NHS and to women who might have had such implants in Scotland. In that way, the appropriate measures can be taken. We will continue to co-operate on such matters with colleagues.

Dorothy-Grace Elder (Glasgow) (SNP): Will the minister investigate the even more widespread fears in the European Commission and elsewhere

about silicone implants? They have been banned in Canada and the USA after thousands of women claimed that their health was ruined. Does the minister realise that the 1988 clearance of silicone by the Department of Health and Social Security was based on a ludicrous investigation of this women's issue by 15 male doctors? Will she consider urgently the banning of those unnecessary and appalling cosmetic implant operations in Scotland?

Susan Deacon: I feel strongly that we are dealing with a very sensitive issue and that it is important that all our comments are couched in suitable terms. I am happy to give Dorothy-Grace Elder an assurance that the Scottish Executive will always act on research evidence, where that is available, and participate, where that is appropriate, to ensure that any treatments and procedures that are offered to patients in Scotland are as safe as possible. We adopt a very precautionary approach. The regulatory regime that is in place, including the work of the MDA, is precautionary in nature, as evidenced by the withdrawal of the soya bean oil implants in recent weeks. However, we must not scaremonger or unnecessarily frighten women who have opted to have this treatment if the evidence does not suggest that they should be worried.

Rail Freight

10. Janis Hughes (Glasgow Rutherglen) (Lab): To ask the Scottish Executive whether it is making any further progress in encouraging the movement of freight by rail. (S10-2029)

The Deputy Minister for Rural Affairs (Mr John Home Robertson): I am replying on behalf of Sarah Boyack. The freight facilities grant allocation for 2000-01 has been increased by £1 million from £6.1m to £7.1m, and that will enable further awards of grant to be made. As the minister responsible for forestry, I am particularly keen to take advantage of opportunities to have timber moved by rail.

Janis Hughes: I welcome the Executive's policy of reducing lorry traffic on Scottish roads. The minister mentioned timber production. I understand that production from Scotland's forests will double over the next 15 years. What is the minister doing to ensure that as much as possible of that timber is moved by rail?

Mr Home Robertson: At present, Scotland's forests are producing about 4 million tonnes of timber. That amount will double—rising to about 8 million tonnes—in the coming years. That is equivalent to about 300,000 lorry movements per year, many of them on Highland roads in remote areas. We want that freight to transfer to rail or sea wherever possible and we are making freight facilities grants available for that purpose. It is very

disappointing that English Welsh and Scottish Railway is failing to respond to some of the opportunities. We would like the company to perform much better and to carry more timber by rail. I hope to meet the chief executive of EWS rail freight shortly to discuss that and other matters.

Christine Grahame (South of Scotland) (SNP): I found the minister's response very interesting. As he is aware, Scotland's timber harvest is set to double over the next 15 years. Kielder forest is the biggest forest in the UK. I refer the minister to the Scott Wilson report. Is the minister aware that the main recommendation under freight options for the southern half of the proposed Borders rail link was for further study into the potential export of timber from Kielder to the south, using the southern section? Given what the minister has just said, will he undertake to instruct further study into the freighting of timber from Kielder forest along the southern section of a Borders rail link?

Mr Home Robertson: Freight can be carried by rail only if a railway exists. At present, there is no southern section of a Borders railway. As Christine Grahame knows, the proposal for a Borders railway is under consideration. Sarah Boyack is well aware of the case that has been made.

Rural Telecommunications

11. Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): To ask the Scottish Executive what assessment it has made of the adequacy of telecommunications infrastructure in rural areas. (S10-2001)

The Deputy Minister for Enterprise and Lifelong Learning (Nicol Stephen): We are aware of the importance of this issue, particularly if we are to achieve our vision of a globally competitive digital Scotland. Our initial assessment—based on research that has already been done and that is shortly to be published by Scottish Enterprise—is that currently telecoms coverage and capacity are good. However—and it is an important however—there is a lack of competition and choice outside the central belt, which could restrict access to broadband technology in the future. The Executive is considering with the enterprise networks and telecoms companies what action is needed to address that.

Alasdair Morgan: It is true, particularly with regard to the latest technology, that provision in urban areas is diverging from that in rural areas. Is there not an argument that, just as the Government is responsible for transport infrastructure, it should take some responsibility for communications infrastructure in rural areas, particularly where there is evidence that the market is not providing that infrastructure

adequately?

Nicol Stephen: That is a fair point. We have already seen significant investment in the Highlands with, for example, companies such as Cap Gemini Ernst & Young UK Ltd expanding their telecommunications activity. Companies such as Iomart and British Telecommunications plc are investing heavily in that part of rural Scotland. Telecommunications and other communications investment is an issue of growing importance. There may be aspects in which public investment, alongside investment by private companies, is appropriate.

Scottish Prison Service (Drugs Testing)

12. Mr Keith Raffan (Mid Scotland and Fife) (LD): To ask the Scottish Executive what the total amount is that will be provided to support the revised Scottish Prison Service drugs strategy and what percentage of that total will be spent on mandatory random testing. (S1O-1989)

The Deputy Minister for Justice (Angus MacKay): In 2000-01, the Scottish Prison Service estimates that it will spend about £17 million on drugs-related matters, of which around half will be spent on care and treatment. About 2 per cent will be spent on mandatory random testing.

Mr Raffan: That seems to be a dramatic increase on the figure of £8 million that was given in the Scottish Prison Service press release just a week ago. Perhaps the minister can explain the discrepancy. Is he aware of the increasing number of those working in the drugs field who question the value of mandatory drug testing, believe that it may even drive prisoners towards hard drugs, and feel that the money would be better spent on treatment and rehabilitation? Will he also give the Executive's latest figures for heroin use in Scottish prisons compared with five years ago?

Angus MacKay: Drug testing evidence shows that heroin use in prison has fallen year on year since testing began, from 16 per cent of tests in 1996-97 to 9 per cent of tests last year. That shows that mandatory drug testing has not produced an increase in heroin misuse in prisons.

On the first point, if Mr Raffan assesses my previous answer, he will find that £17 million will be spent on drugs-related matters in 2000-01, of which around half will be spent on care and treatment. That amount is roughly equivalent to the £8 million that is set out in the new Scottish Prison Service strategy document.

Dr Richard Simpson (Ochil) (Lab): Will the minister indicate how much of that budget will be allocated to the training of nursing and medical staff in dealing with drug problems in prison? If he cannot give the figure, will he undertake to ensure that there is adequate provision in this respect?

Angus MacKay: I cannot give an exact figure, but I will write to the member. However, I can say that the Scottish Executive is drawing up a new training specification for addictions workers and that the Scottish Prison Service is actively involved in that work.

Stonehaven to Glasgow Rail Link

13. Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the Scottish Executive what measures it is taking to ensure that direct rail links between Stonehaven and Glasgow are protected. (S1O-1973)

The Minister for Rural Affairs (Ross Finnie): In the absence of Sarah Boyack, I will say that Stonehaven has been properly identified as rural. ScotRail has a contractual obligation to maintain an agreed minimum level of services from Glasgow that stop at Stonehaven. The Scottish Executive, in its directions and guidance for the replacement of the Scottish franchise, will build on the franchising director's insistence that current levels of service should be secured as a minimum.

Mr Rumbles: Is the minister aware that while ScotRail is investing a welcome £1.2 million in refurbishing Stonehaven station, it has just cut direct services to Glasgow, so that there is no service in the morning after 7.19? The Executive has a policy of developing an integrated transport system for the people of the north-east, the heart of which is to persuade people to leave their cars at home and take the train. Does he recognise that the decision to cut services from Stonehaven to Glasgow is a matter not just for the rail authorities, but for the Executive? Will he ask Sarah Boyack to knock some heads together to sort this out?

Ross Finnie: I am aware of the point that Mr Rumbles raises. One of the problems of answering such questions is that one has to consider the timetables. All proposed timetable changes must be presented for consideration to passenger transport executives, user representatives, local authorities and the shadow strategic rail authority before they can be adopted. I advise Mr Rumbles that in this case, that process was applied to the changes to summer services between Stonehaven and Glasgow. I accept, because I have looked at the service reductions, that they cause considerable inconvenience. The authorities to which I referred were consulted, and it is a matter of concern that the issue was not raised by the relevant local authorities, which had the opportunity to deal with the issue.

Mr John McAllion (Dundee East) (Lab): When I last checked, the direct rail link between Stonehaven, Aberdeen and Glasgow ran through Dundee. Bearing that in mind, will the Executive ask the train operating companies why most of the investment, the best of the rolling stock and the

bulk of the staffing is concentrated in central belt links, such as the one between Glasgow and Edinburgh, while the rest of the country, such as the north-east of Scotland, has to settle for second best? Indeed, the Borders has no rail links at all. Surely, sooner or later, someone has to wake up to the fact that privatisation of the railways has not worked and should be brought to an end.

Ross Finnie: Sarah Boyack answered a similar question two weeks ago, and made it clear that while we all welcome the investment that is being made in new coaches, there is no question but that we wish that to be accelerated. Sarah Boyack would confirm that she gave that answer. We wish to see better rolling stock throughout Scotland, but it is a matter of the investment being put into place.

Housing

14. Ms Sandra White (Glasgow) (SNP): To ask the Scottish Executive whether it will make Glasgow a special case and grant it additional funds to implement the new licensing system for houses in multiple occupancy. (S10-2017)

The Deputy Minister for Local Government (Mr Frank McAveety): Mandatory licensing of houses in multiple occupation has been introduced by an order under the Civic Government (Scotland) Act 1982. It is expected to be fully self-financing, as the act requires licensing authorities to ensure that the total amount of licence fees receivable is sufficient to meet the costs of operating licensing systems that are established under the act.

Ms White: I hear what the minister says, but with the massive cuts in local government funding, I cannot see how it is possible for the Glasgow City Council scheme to be self-financing. Surely the minister is aware that more officers are needed to enable that scheme to be implemented, and that that will cost more money. Does he agree with the results of the recent *Evening Times* poll, in which 93 per cent of readers said that Glasgow should receive extra money and should be a special case?

Mr McAveety: If the poll had also asked whether the public would accept licensing if it could be demonstrated that the money could be raised through the registration costs, there would have been even greater support for such a measure. All licensing procedures throughout local government are self-financing. Local authorities can prioritise within their budgets. Unlike Ms White, I have engaged in that process extensively in the past. We make choices about what is appropriate. In this case, we think that we can meet the costs without asking for further public funds.

Scottish Youth Parliament

15. Cathie Craigie (Cumbernauld and Kilsyth) (Lab): To ask the Scottish Executive what funding it is providing to the Scottish youth parliament in the current financial year. (S10-1980)

The Minister for Children and Education (Mr Sam Galbraith): No application for funding was submitted, although support workers to the Scottish youth parliament were advised of the timing of the funding round and had access to grant application forms.

Cathie Craigie: I thank the minister for the information contained in his reply. I am sure that he recognises and will value the contribution that the Scottish youth parliament can make in developing policies and providing a platform for young people's voices to be heard. Will the minister give a commitment that the Executive will properly fund and give administrative support to the youth parliament, so that this Parliament can listen to the voices of Scotland's youth?

Mr Galbraith: We very much recognise the value of the youth parliament, which is why we gave it an initial grant of £15,000. My officials were in touch with the youth parliament on 5 June, to suggest ways in which we might take this process forward. We spoke to the parliament again at the youth summit on Monday this week and we are awaiting a reply.

Hospital Discharges

16. Bristow Muldoon (Livingston) (Lab): To ask the Scottish Executive what new initiatives are under way to improve the position regarding delayed discharges from hospital. (S10-2032)

The Deputy Minister for Community Care (Iain Gray): Reducing the number of delayed discharges is a high priority. A sum of £60 million is being made available, on top of existing record levels of funding in the national health service, to accelerate the delivery of a number of priorities, including a reduction in the number of delayed discharges. A learning network is being established to encourage the sharing of best practice.

Bristow Muldoon: I thank the minister for his answer and welcome the additional resources that have been made available. I am sure that they will be welcomed by MSPs from all parties—we have had much correspondence on this issue.

Does the minister feel that recent initiatives such as the opening doors for older people initiative in West Lothian, which enables older people to live independently in the community for longer, can make a long-term contribution to the problem?

Iain Gray: Bristow Muldoon is absolutely right. In response to previous questions, I have pointed

out that the audit of delayed discharge that is under way has revealed that there are some 42 reasons for delayed discharge. If we are ever to make a difference, we must think hard about long-term solutions, which will include joint working, rapid response teams to ensure that admission does not happen unnecessarily, and community rehabilitation to ensure that people can return to their homes once a care package is in place. There are good examples, and the purpose of the learning network is to ensure that good practice is spread throughout Scotland.

First Minister's Question Time

SCOTTISH EXECUTIVE

Cabinet (Meetings)

1. Mr Alex Salmond (Banff and Buchan) (SNP): To ask the First Minister what issues were discussed at the most recent meeting of the Scottish Executive's Cabinet. (S1F-441)

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): The Cabinet discussed several matters of significance to the Executive and to the people of Scotland.

Mr Salmond: Let me say how pleasant it was to see the First Minister back in action on television this week. We look forward to seeing him back here, after the close season for football and politics.

While the acting First Minister is still acting, will he agree that pensioners in his constituency and mine are facing 40 per cent increases in water charges, while the pension has increased by only 1 per cent? What action is he taking to ensure that pensioners and low-income households are able to meet that imposition of water charges?

Mr Wallace: I join Mr Salmond in saying that it was indeed pleasing to see the First Minister in action, and I am sure that the whole Parliament sends him good wishes for a continuing speedy recovery.

Mr Salmond raised the question of water charges. If he had been listening attentively last week to Sarah Boyack's announcement on the future of water charging, he would have heard her say that the Executive is considering how those on lower incomes can be helped, given the fact that the current benefits system does not extend to that.

Mr Salmond: I know that there is a review, but would not it have been sensible to have the review before putting the charges up by 40 per cent in the north of Scotland and by substantial amounts in other parts of the country? Did Mr Wallace hear the debate in Parliament this morning, at which it emerged that while the Chancellor of the Exchequer was putting up the pension by 1.1 per cent, based on inflation, he was also putting up petrol duty by 3.3 per cent—also based on inflation? When he met the chancellor a couple of weeks ago, did the acting First Minister raise with him the question of social inclusion and pensioner poverty? Can he explain why that differential exists, or does he agree that the chancellor is robbing pensioners and cheating motorists?

Mr Wallace: I was aware of the figures that Mr Salmond alludes to. I am sure that he is also aware that in 1999 the retail prices index led to a pension increase of 3.2 per cent, but to an increase in excise duties of 1.33 per cent. I am sure that Mr Salmond was not suggesting that the cost of the rise in pensions should have been reduced to the level of the rise in excise duties.

Those figures must be considered against the background of the document produced by the SNP before the election, "The Economic Case for Independence", which assumed that the petrol escalator would continue. Under SNP plans, pensioners and other drivers in Scotland would have had to pay far more for their fuel than is the case as a result of the budget.

Mr Salmond: Petrol prices increased last year by 8 per cent; I would have expected the acting First Minister to remember that, because he and I voted against that increase in the House of Commons. Is not it the case that, last week in the House of Commons, the Liberal social security spokesman described the rise in pensions as pathetic? Is not it the case that, in this chamber today, Liberal MSPs described the rise in petrol duties as pathetic? Is not it pathetic that the acting First Minister has to act as a Labour party mouthpiece in defending a chancellor who is robbing pensioners and cheating motorists?

Mr Wallace: That question had a tinge of pathetic desperation about it. I am only too pleased that Mr Salmond has again made reference to my voting record on the issue. I would certainly have voted against him if he had ever been in a position to propose a budget that clearly showed that, as a result of "The Economic Case for Independence", the escalator would have continued right through until 2003-04. Under the SNP, people would have had to pay far more for their fuel than the SNP is ever prepared to admit. That would have been the cost of independence, and Mr Salmond is too feart to admit it.

I will give Mr Salmond credit; he is very brave if he tries to suggest that there is some difference between me and my colleagues. I can tell him that I am much closer to my colleagues than he is to his.

Prime Minister (Meetings)

2. David McLetchie (Lothians) (Con): To ask the First Minister when he next intends to meet the Prime Minister and what issues he intends to raise with him. (S1F-440)

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): I have had two meetings with the Prime Minister this month, the latest being in Glasgow last Friday at the joint ministerial committee on health. No future

meetings have as yet been planned.

David McLetchie: Will the Deputy First Minister take the opportunity at his next meeting with the Prime Minister to discuss the operation of the Barnett formula? I note from the press this week that Lord Barnett has suggested that the formula might be reviewed. Will Mr Wallace confirm that under successive Conservative secretaries of state for Scotland, we won a very good deal from the Treasury in the annual spending round, with the result that we sustained consistently higher levels of spending on education and health throughout our period in office? It is Mr McConnell and the Scottish Executive who are failing to stand up for Scotland's interests in their negotiations with the Treasury.

Mr Wallace: The Barnett formula, which was in the white paper and was reflected in all the debates that we had on setting up a Scottish Parliament, will deliver stability in funding and avoid annual haggling, which would have been very damaging.

As public expenditure increases, there is convergence. Under the latter years of the Tories, there was divergence as the result of public spending cuts. I would much rather be in a position where we are about to spend record levels in real terms on health and education, as this Executive is doing.

David McLetchie: I welcome the Deputy First Minister's commitment to stability in our constitutional settlement. The Conservatives certainly welcome that.

I will move to another matter that relates to public finance, which touches on the point that Mr Salmond raised about the differential inflation rates that are applied to pensions and petrol taxes. For matters that are within the Scottish Executive's responsibility, will the Minister for Finance, Mr McConnell—like Gordon Brown—fiddle the figures by using a higher rate for setting taxes such as business rates, but a lower rate for calculating future spending decisions?

Mr Wallace: I do not know where Mr McLetchie is coming from; perhaps that is the sort of question that is being fed to him by Mr Bill Walker. I said a fortnight ago that Phil Gallie was in the mainstream and that that was worrying; the Tories have shown that Bill Walker is now in the mainstream—that is chilling.

It is without foundation to suggest that Jack McConnell would in any way fiddle figures. That is a slur and I am sure that Jack McConnell is pleased—along with other members of the Executive—to be a member of an Executive that is spending record levels on education, health and improving public services in Scotland.

Andrew Wilson (Central Scotland) (SNP): When the acting First Minister next meets the Prime Minister, will he bring up the issue of Liberal Democrat party policy? I think that he is still a member of that party. When he does so, will he mention the policy approach of his colleague Malcolm Bruce, who last night repeated his calls for full financial powers for this Parliament? Will they agree with Mike Rumbles, who said in the debate this morning that his view was that we should have more power over our own affairs, including tax? Will the acting First Minister agree with Robert Brown and Ian Jenkins, who again this morning—

The Presiding Officer (Sir David Steel): Mr Wilson, your question must relate to Mr McLetchie's original question, which was about meetings with the Prime Minister.

Andrew Wilson: With the greatest respect, I asked at the start of my question whether the Deputy First Minister would bring up Liberal policy when he next spoke to the Prime Minister.

The Presiding Officer: We could not hear for the noise.

Andrew Wilson: I was not—[*Interruption.*] If members on the Executive benches—

The Presiding Officer: Order. There is too much noise—even I cannot hear what Mr Wilson is saying.

Andrew Wilson: Will the Deputy First Minister agree with Malcolm Bruce, Ian Jenkins, Mike Rumbles and Robert Brown—all Liberals—who have called for greater powers for this Parliament on finance, or will he disagree with them and back the Labour party, which he seems to work for? Is he the leader of the Liberals or the mouthpiece of the Executive?

Mr Wallace: I put on record my appreciation of the SNP, which has given more party political broadcasts for the Liberal Democrats than anyone has done in a long time. I am sure that people will be pleased to hear what my colleagues have to say.

We have made it clear—it is what we argued for and on what we fought the referendum—that the Barnett formula gave the Parliament the best opportunity to get off on the right footing with stability. The white paper, which was the precursor to the referendum, said that

“Any more substantial revision would need to be preceded by an in depth study of relative spending requirements and would be the subject of full consultation between the Scottish Executive and the UK Government.”

It was envisaged even then that, in the longer term, such matters might have to be revisited, but I do not know of anyone other than the SNP—for the obvious purpose of constitutional wrecking—

who wants to upset the stable basis on which my party and the Labour party fought the referendum.

The Presiding Officer: Before I call question 3, I ask members to note that supplementaries have to be in order, as the original question is.

Post Office Closures

3. Mr Adam Ingram (South of Scotland) (SNP): To ask the First Minister what representations have been made by the Scottish Executive to Her Majesty's Government regarding the future of the local post office network in Scotland in the light of the announcement of post-tax losses by the Post Office. (S1F-442)

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): The Scottish Executive is in regular contact with the United Kingdom Government on a wide range of issues, including the future of the post office network in Scotland.

Mr Ingram: What provision and allocations has the Executive instructed its agencies to make to repair the economic and social fabric of communities, if and when post offices close as a consequence of automated credit transfer of benefit payments into bank accounts? If the Executive has made no such plans, will it give an assurance today that no post offices will close?

Mr Wallace: The Scottish Executive has been working closely with the United Kingdom Government on this matter. Members will be aware that the Cabinet Office performance and innovation unit will produce a report on the matter shortly, which we have been assured will take full account of circumstances in Scotland. Furthermore my colleague Henry McLeish has set up a group of ministers to examine closely the issue of the network of post offices. The issue will be taken account of in our project for modernising government. I believe that there are great opportunities for sub-post offices, not just in rural areas—although post offices are important in such areas—but on many urban estates in Scotland.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): As a representative of a constituency that has many rural post offices and many people who use them to claim benefits, I ask the minister to restate the commitment that has already been given by representatives of the UK Government and the Executive that people will retain the choice of collecting their benefits in cash at the post office. Furthermore, does he agree that the other political parties would be better seeking constructive solutions, instead of scaremongering and frightening elderly people into believing that they will not have that choice?

Mr Wallace: I confirm that those benefit recipients who wish to collect their benefit

payments in cash from a post office will continue to be able to do so. That welcome assurance has been given. I share the view that there are opportunities to support the network of sub-post offices. Henry McLeish's group of ministers is actively addressing that issue. The group should help to secure a proper and adequate network of post offices throughout rural Scotland and many parts of urban Scotland.

Action Programme for Youth

4. Patricia Ferguson (Glasgow Maryhill) (Lab): To ask the First Minister what progress has been made on the action programme for youth. (S1F-451)

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): Together with a large number of ministerial colleagues, I took part in the youth summit in Motherwell on Monday, which marked the first major step in the development of our action programme for youth. The event was successful and enjoyable. More than 1,200 young people from across the country took part. My colleagues and I were greatly encouraged by their enthusiasm and their ideas.

Patricia Ferguson: Does the Deputy First Minister agree not only that the voice of young Scots must be heard, but that their ideas must be acted upon, to show that our new democracy is genuinely inclusive? Will he give an assurance that the Executive will respond publicly to the ideas and issues that were raised at the summit?

Mr Wallace: When I addressed the summit, I said that the days were past when young people were expected to be seen and not heard. The young people came forward with many good ideas. Many of us, when we campaigned for a Parliament for the whole of Scotland, meant that not only in terms of geography, but in terms of all Scotland's different peoples, young and old. We ought to pay attention to what young people say. They have experience of many important issues into which, with the best will in the world, we do not have the same insight. I confirm that an Executive response to the key issues raised at the summit will be published.

Donald Gorrie (Central Scotland) (LD): Does the acting First Minister accept that many youth organisations suffer severely from the annual cuts in local government budgets, which mean that they are underfunded? Will he find some way for the Executive to put in more money, either directly or indirectly through the councils, to enable youth organisations to deliver the sort of programme that the Executive wants?

Mr Wallace: Many of the youth organisations that we are talking about rely very much on the work of volunteers. During volunteers week, we

made clear the extent of the work that the Executive is doing to support voluntary organisations, including youth organisations, which have an important role to play in our society. We value the contribution that they make. In addition, we have set up pilot projects to give funding for leisure and recreational facilities—a subject very close to Mr Gorrie's heart—for young people with criminal records, as a proper diversion from criminal activity.

Fisheries Council

5. Tavish Scott (Shetland) (LD): To ask the First Minister what progress was made at the meeting of the Fisheries Council in Luxembourg on 16 June 2000. (S1F-433)

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): The Deputy Minister for Rural Affairs, Mr John Home Robertson, attended the Fisheries Council. Good progress was made in a range of areas. In particular, Mr Home Robertson raised the issue of the unregulated haddock fishery to the west of Rockall and obtained the support of a number of member states to bring that fishery under control. The United Kingdom team also made clear its opposition to the view expressed by the Commission that there should be further reductions in fleet capacity under the multi-annual guidance programme.

Tavish Scott: I welcome the progress made by the fisheries minister at the council. Will the acting First Minister confirm that the Scottish Executive will support the Scottish Fishermen's Federation's zonal management proposals, as a constructive proposal for fisheries, rather than the crude percentage cuts proposed by the Commission last week? Will he also confirm that the Executive is doing all that it can to obtain the agreement of the Norwegian Government to the introduction of square-mesh panels in whitefish trawls to protect the large number of immature haddock in the North sea? Will he also confirm that the fisheries minister will be able to make a statement to the chamber on those matters?

Mr Wallace: That question came in three parts. First, we believe that technical conservation measures and effluent limitation have played an important part in easing the pressure on stocks and ought to be given proper consideration by the Commission, instead of the crude cuts in capacity that the Commission has proposed. Square-mesh panels are a subject very dear to my heart, as I campaigned for them with successive fisheries ministers at Westminster for a long time. It now appears that we are about to get there, which shows what happens if one perseveres long enough. I accept the importance of getting Norwegian agreement to use the nets in

Norwegian waters. I assure Mr Scott that Scottish Executive officials and scientists are engaged in discussions with their Norwegian counterparts. We expect to confirm shortly that Norway will accept the nets. I will need to be reminded of the third question.

Tavish Scott: Will the fisheries minister make a statement?

Mr Wallace: I know that Mr Home Robertson has answered a written parliamentary question on the subject and has made a report available to the Rural Affairs Committee. If a statement is requested or required to supplement that, the matter may be taken up with the business managers and with Mr Home Robertson.

Dr Winnie Ewing (Highlands and Islands) (SNP): Reform of the common fisheries policy is one of those topics that keeps being brought up. It is clear that the CFP has not been a success for UK fleets, partly because of the diversity of the types of fish in our waters. Stocks have not been maintained, fishing communities have not been preserved and young people have not entered the profession. Will the ministers responsible therefore examine closely the late Dr Allan Macartney's report on the need for zonal control, which was passed, I think unanimously, by the Committee on Fisheries of the European Parliament?

Mr Wallace: I am sure that ministers and officials will consider any useful contribution. I pay tribute to the work that Allan Macartney did, and the question of greater regional management of fisheries is certainly on the agenda.

However, I caution Dr Ewing in damning the common fisheries policy out of sight. Relative stability has been of considerable benefit to the Scottish fishing industry and I hope that she is not suggesting that that should be challenged.

Mr Jamie McGrigor (Highlands and Islands) (Con): Will the Executive give some assurance that the six and 12-mile limits will not fall when the derogation comes to an end in 2002?

Mr Wallace: That is an important issue in the 2002 review. The early indications in consultations with all member states are that those limits are not under any challenge and we would certainly seek to defend them.

Bail, Judicial Appointments etc (Scotland) Bill: Stage 1

The Presiding Officer (Sir David Steel): We move to our main debate, on motion S1M-984, in the name of Jim Wallace, on the general principles of the Bail, Judicial Appointments etc (Scotland) Bill.

I ask members who are not staying for the debate to leave quickly and quietly.

15:31

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): I would like to thank the Justice and Home Affairs Committee, the Subordinate Legislation Committee and the conveners of both committees for their co-operation in dealing with the bill so quickly and efficiently. I am fully aware that the timetable has been very tight and far from ideal. There are special circumstances attached to the bill; this will not be our normal practice.

I welcome the fact that the Justice and Home Affairs Committee has given broad agreement to the general principles of the bill. In my speech, I will suggest some constructive amendments that I hope will address the specific concerns that have been raised.

The principal aim of the bill is to bring aspects of our law into line with the European convention on human rights. It covers three distinct subjects: bail, judicial appointments and district courts. It is clear from two recent Strasbourg cases that our current law on bail is incompatible with the convention. It is agreed on all sides that the law must be changed—the question is how it should be changed. The bill proposes two main amendments to current procedures. First, it places a new statutory duty on sheriffs to consider bail automatically when an accused first appears in court. Secondly, it repeals the bail exclusions that prevent a sheriff from considering bail at all when a person is accused of murder or treason or is accused of certain violent or sexual offences and has a previous conviction for such an offence.

I will deal with the statutory criteria and some of the points that are made in the Justice and Home Affairs Committee's report. First, there is Professor Gane's suggestion that the bill should include specific statutory criteria to guide the courts in making decisions on bail. I agree that that approach is possible, but I do not agree that it is necessary, desirable or achievable in the time available. The only purpose of the bill in that respect is European convention on human rights compliance. A statutory right to bail, with statutory

exceptions, would require us to codify Scots common law as modified by Strasbourg jurisprudence. That would be complex and difficult and there would be an unacceptable risk of getting it wrong, particularly as we are working against such a tight time scale.

In any case, there is considerable merit in relying on the common law. Common law offers well-established guidance on when the courts may refuse bail and the bill will allow our courts to interpret and, if necessary, develop that common law in line with convention jurisprudence. Of course, convention jurisprudence is often a moving target. This is the best and safest way forward and therefore I do not propose any amendments to introduce statutory bail criteria.

Secondly, there is an understandable concern about how the removal of current bail exclusions will affect victims. I do not think that the abolition of bail exclusions will endanger victims in any way, but I want to be doubly sure of that. In the first place, I intend to ensure that the court always has information about possible risk to the victim when reaching decisions on bail. We want the police to evaluate such risks thoroughly in all cases involving violent or sexual offences. We have already agreed the principle with the police and the Crown and are now engaged in discussing detailed procedures.

In addition, it is only right that victims should be notified as quickly as possible if an accused person is released on bail—and of the conditions of that release. Police forces and procurators fiscal already have local procedures to notify victims and witnesses of bail decisions, particularly in domestic violence cases. I want to ensure that those procedures are routinely and effectively implemented where there is any threat of risk to a victim or witness. We are already discussing possible arrangements with the police and I hope that we can conclude that work shortly. There is also a wider strategy for victims' issues, as victims are, and will remain, a priority for the Executive.

In the light of the High Court's decision in the *Starrs* and the *Chalmers* case—that for the purposes of the ECHR a temporary sheriff is not an independent and impartial tribunal—the bill provides for the abolition of the office of temporary sheriff and creates a new judicial office of part-time sheriff with statutory security of tenure. No one has disputed the need for a new office to provide urgent relief for our sheriff courts, even allowing for the 19 additional permanent appointments that we have made since November last year.

The Justice and Home Affairs Committee expressed a strong view that our proposals do not go far enough to ensure proper statutory security of tenure and it was consequently concerned that

the new office could also fall foul of the ECHR. Although we were satisfied that the bill as introduced was compatible with the ECHR, we have re-examined the issue in the light of the committee's concerns. It is essential that the procedures surrounding judicial appointments, reappointments and removal from office should guarantee the independence and impartiality of the relevant postholder.

It is therefore my intention to introduce two Executive amendments that will put matters beyond doubt. The first relates to the appointment of the tribunal authorised to remove part-time sheriffs. The bill currently provides for that tribunal to be appointed by the Scottish ministers after consulting the Lord President of the Court of Session. We propose to amend that provision so that the Lord President alone is responsible for appointing the tribunal; consequently, Scottish ministers will have no hand in the process. That removes any possible doubt about the independence of the tribunal that will have the power to dismiss part-time sheriffs from office.

Secondly, as the bill stands, part-time sheriffs will be appointed for a period of five years and may then be reappointed by Scottish ministers. Concerns have been expressed about whether that could be seen to undermine part-time sheriffs' independence and impartiality. That said, we believe that we need some flexibility on the number and disposition of part-time sheriffs. Such flexibility would be lost if those appointed held office until they were 70 and their appointments could not be terminated unless they were unfit for office.

As it is by no means certain that we will need the same number of part-time sheriffs for all time, we propose to introduce amendments to provide greater security of tenure for part-time sheriffs while maintaining the necessary flexibility. The amendments will provide that any part-time sheriff coming to the end of a five-year term who wishes to seek reappointment will, with certain limited exceptions, automatically be reappointed by Scottish ministers. Those exceptions are: where the person in question has reached the age of 69; where a sheriff principal recommends that the part-time sheriff should not be reappointed; where the part-time sheriff has not sat for at least 50 days during the five-year period; and, finally, where an order has been made with Parliament's approval to reduce the total number of part-time sheriffs.

I should emphasise that the existence of any of those circumstances will not necessarily preclude the reappointment of a person as a part-time sheriff; it simply means that if one of the conditions applies, reappointment is at the discretion of Scottish ministers rather than automatic.

Taken together, those amendments should meet in full the Justice and Home Affairs Committee's ECHR concerns about the new procedures for the appointment and removal of part-time sheriffs. We will of course be happy to explain and discuss our proposals in more detail during stage 2 consideration of the bill.

I also want to address the Subordinate Legislation Committee's concern about the order-making power covering appointments. The order provides that in appointing part-time sheriffs, Scottish ministers shall comply with any procedures that may be set out in regulations; but it does not require the Executive to make such regulations in the first place. I give a firm undertaking that we will consult on such regulations and introduce draft regulations for the Parliament's consideration as soon as possible after the summer recess. I am also happy to give a similar undertaking about the corresponding power to make such regulations for the appointment of justices.

Finally, in response to a recent request from the Lord President, we will introduce one additional amendment on judicial appointments. It will provide a power, subject to the Parliament's approval, to vary the number of inner-house judges. While the size of the outer house has grown significantly in recent years, the size of the inner house has remained constant. That has implications for the efficient and timely handling of appeals generally, among other things. We will lodge an appropriate amendment for consideration at stage 2.

Lord James Douglas-Hamilton (Lothians) (Con): Does the minister think that a sheriff who is relieved of his duties should have the same right of appeal as everyone else?

Mr Wallace: Lord James is referring to full-time sheriffs rather than part-time sheriffs. He will be aware that we have in place procedures for the removal of full-time sheriffs that have recently been applied and tested in the courts. This bill does not deal with full-time sheriffs.

The third major set of proposals relates to the district courts. The bill prevents local authorities from bringing prosecutions in the district court in future, for reasons that require little explanation. More fundamentally, the bill introduces a distinction between full and signing justices. The former will be able to exercise judicial functions while the latter will be restricted to duties such as authenticating documents and signatures. The bill provides explicit statutory security of tenure for full justices because of their judicial role. It excludes ex officio and councillor justices from that judicial category.

I will explain the provisions on councillor and ex

officio justices. I want to make it clear that the bill is in no way an attack on the integrity of our district courts. I value the principles of local justice and I want to recognise and put on record the integrity and civic commitment of our justices. I would not seek to remove ex officio and councillor justices from the bench unless I felt it was necessary to do so to protect the district court from ECHR challenge.

I have announced a wide-ranging review of the district courts that will go in tandem with this more immediate legislation. There is no hidden agenda. We are discussing the scope of that review openly with interested parties such as the District Courts Association. I am happy to take on board the committee's suggestion that we use the review to address concerns highlighted in its report.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): As the minister will be aware, that issue was considered in some detail in the Subordinate Legislation Committee. The civil servants to whom we spoke said that the appointment of councillors as justices of the peace was compliant with the ECHR. Why, therefore, is the minister including the exclusion of councillors in this bill?

Mr Wallace: I saw that reference in the report and queried it. I think that there was a misunderstanding of what was said. What was meant—and if I am wrong I will make sure that it is corrected by the time Angus MacKay winds up—was that the problem as regards the ECHR was not the mode of appointment of justices but the fact that there were issues surrounding matters such as security of tenure. Ex officio justices could be dismissed by a motion of a political party. That would give rise to serious concerns. Indeed, as we saw with the Starrs and Chalmers case, there was a clear indication by the Court of Session that no impropriety was suggested—the perception of impropriety was the problem. We believe that that perception might exist with regard to justices acting in the district courts together with questions of security of tenure. That is why we are introducing the bill.

There is a suggestion that councillor justices might be able to remain on the bench if they are given statutory security of tenure and local authorities no longer retain fine income. I do not believe that that is the right way forward and I note that the committee has also expressed reservations about that approach. Seeking to divert fine income does not address the more general concern about the blurring of boundaries between political and judicial functions to which the Justice and Home Affairs Committee referred in its report. I, too, share that unease. Our solution is the best way of removing any perceived lack of independence and impartiality. As I said to Fergus

Ewing, it is the perception that counts.

The committee asked us to say how we would deal with the negative impacts of the changes. I think that they will be containable. The number of cases dealt with by the district court has fallen by more than a third since 1992 and other justices are available to fill the gap. Councillor and ex officio justices represent 88 out of 817 bench-sitting justices and 84 additional justices are available who are fully trained but for whom bench duties have not been available.

On reflection, we believe that it would be desirable to bring the proposals for the removal of justices more closely into line with the corresponding arrangements for the removal of part-time sheriffs. We will therefore lodge amendments at stage 2 to create a tribunal for the removal of justices along exactly the same lines as the tribunal for removing part-time sheriffs. It will be appointed by the Lord President and will comprise a sheriff principal, a legally qualified member with at least 10 years' experience and one other member. We will also lodge an amendment to allow councillor justices to continue to sit on local justice committees, in response to representations that have been made to us by the Convention of Scottish Local Authorities.

I welcome the Justice and Home Affairs Committee's balanced report and its general support for the principles of the bill. I hope that members will accept that we have been prepared to listen and respond constructively to the concerns that have been raised by both committees and by others. The bill will be better for these amendments and I am grateful for the co-operation and assistance of the committees in dealing with this important bill at very short notice. I commend the bill to members.

I move,

That the Parliament agrees to the general principles of the Bail, Judicial Appointments etc (Scotland) Bill.

15:46

Roseanna Cunningham (Perth) (SNP): I acknowledge what the minister has said in thanking the Justice and Home Affairs Committee, but he will probably not be surprised to hear that in my capacity as the convener of that committee I have some hard words to say about how we have had to deal with the bill.

From the committee's report, members will see that we have had only a very short time to consider the bill. The report is the closest any committee has yet come to refusing to agree the principles of an Executive bill. Only the possibility of the bill being amended at stage 2 prevented that conclusion being reached.

The committee has tried to respond to the Executive's request that the bill be treated as a matter of urgency and we understand the desire to get it passed as quickly as possible. After all, there has been severe and widespread criticism of the situation that has developed in our courts as a result of the case of Starrs and Chalmers, in which it was decided that a court that is presided over by a temporary sheriff is not an independent and impartial tribunal according to the ECHR. The consequent suspension of the use of temporary sheriffs has resulted in near crisis conditions in many Scottish courts.

It is therefore entirely understandable that the Executive wants to move quickly to resolve the problem. Equally understandable is the decision to use the legislative opportunity to deal with some other aspects of ECHR compliance. What has been less acceptable to the committee, however, has been the combination of delay in introducing the bill and the demand that it be dealt with in an extremely short time.

Given the introduction date of the bill, adherence to existing standing orders would have made it quite impossible to progress the bill even to this stage before the summer recess. Standing orders have had to be suspended, as for the Regulation of Investigatory Powers (Scotland) Bill, which has led to the almost farcical position in which we find ourselves today—debating the bill at stage 1 and voting on it at 5.30 pm, with amendments at stage 2 having to be lodged by 5.30 pm tomorrow.

There can be no doubt whatsoever that this was not what the consultative steering group had in mind when it designed the committee structure and standing orders of this Parliament. The committee had to begin its stage 1 considerations on the basis of a draft bill, before the bill was introduced, and this week members have been asked to lodge draft amendments with the clerks before today's debate, to allow the clerks to minimise the effect of having only 24 hours in which to work. To say the least, that is a wholly unsatisfactory state of affairs.

To add insult to injury, this turned out not to be quite such an uncontroversial bill as was originally promised. The committee should have had a greater opportunity to hear from other witnesses, especially as the Sheriffs Association told us that the outcome of part 2 of chapter 1, relating to part-time sheriffs, would be no more ECHR compliant than were temporary sheriffs and that a similar challenge would inevitably follow.

In addition, the Justice and Home Affairs Committee had to disadvantage witnesses considerably by asking them to respond to invitations at incredibly short notice. I am grateful to all the witnesses for accepting those invitations, although, on at least one occasion, the result was

to add further to the problems in the Edinburgh sheriff court, as the sheriffs who gave evidence to the Justice and Home Affairs Committee could not be in two places at once.

I am also grateful to the members of the Justice and Home Affairs Committee and to the clerking team for their hard work, good humour and considerable forbearance throughout the brief but hectic progress of the bill thus far. Once again, they have shown their ability to work effectively under extreme pressure. I hope, for the Parliament's sake, that the clerks never invoke the European working time directive against us.

I also hope that the Executive will heed those criticisms. The Justice and Home Affairs Committee can deal with a heavy work load; its members have shown themselves capable of colossal amounts of work. What is becoming more and more difficult is dealing with that work load under the time constraints the Executive insists are necessary.

I shall now cease to speak as a committee convener and turn to the bill and the issue of bail. Once the European convention on human rights was incorporated, it was absolutely inevitable that some changes would have to be made to the law of Scotland. There is no point in adopting the ostrich approach—and I hope that no one will do that today. In the case of bail, changes were necessary. Without them, there would inevitably have been challenges. That would no doubt have happened at the worst possible time, in the context of a hugely emotional case with all the subjective issues it would have involved. It would have been irresponsible of the Executive not to ensure that such a situation was avoided. I am also convinced that when the changes are enacted, we will see little if any difference in the bail decisions in our courts. Suggesting otherwise, as some might, would be wrong.

Where, however, the representatives of victims organisations do indeed have a reasonable point is in the continuing demand that victims be informed of bail decisions. There is evidence that that is not happening. Victims should perhaps also be informed of the reasons for bail decisions. I am pleased that the minister is to look favourably on the suggestions that have been made by those organisations. I look forward to seeing the detail of his proposed amendments and I thank him for the concessions that he has made today.

The issue of temporary and part-time sheriffs is infinitely more problematic. I will not dwell on the length of time that it has taken the Executive to introduce proposals to correct the situation in our courts as a result of Starrs and Chalmers. What does need to be addressed, however, is the serious criticism that there are real flaws in the bill that mean that further challenges under the ECHR

are inevitable unless the bill is amended. The first of those flaws is in the mechanism in section 6 for removing a part-time sheriff. The fact that the proposed tribunal was to comprise individuals who had been nominated by the Executive; the fact that it could have been argued that two out of the three members were not independent of the Executive; and the fact that no appeal mechanism seemed to have been provided gave cause for great concern that the section would not be compliant with the ECHR. In my view, there should be appeal mechanisms.

I thank the minister again for the concessions that he has made today and I look forward to seeing the detail of the amendments to assess whether, given the evidence that we have heard, they make the changes that are required.

Mr Jim Wallace: I do not want to be misunderstood or for Ms Cunningham to feel that she has been misled in any way. I want to go back for a moment to the concerns that victims organisations expressed about bail. The changes that we are proposing will be procedural, not legislative amendments.

Roseanna Cunningham: Yes, I was aware that although it might have been possible to legislate, it was equally likely that changes would be made by procedural means. Clearly it is better to make changes in the way the minister suggests, because that can be done far more quickly.

The second of the flaws in relation to temporary and part-time sheriffs lies in the fact that the appointment of the new part-time sheriffs is to run for only five years. The minister addressed the concerns in the Justice and Home Affairs Committee's report, but there seems to be potential for undermining the perception of the independence of those sheriffs. Given that that potential problem is the very point that brought about the current situation, it seems extraordinary that we might leave that same door open.

I am still not sure why we could not simply put part-time sheriffs on to permanent contracts and make them subject to the same mechanisms that apply to full-time sheriffs. However, the minister's concession today of automatic reappointment is welcome. Again, I look forward to seeing the detail of those amendments at stage 2—which, of course, will be next Tuesday morning and perhaps next Tuesday afternoon and perhaps next Wednesday morning as well.

The new procedures for hiring and firing—if I can use that phrase—justices of the peace will be more open and transparent. It has to be said that the measures in the bill as regards JPs would have been entirely in judicial hands, unlike the situation for part-time sheriffs, which was an interesting contradiction in the bill, but the

decisions on personnel would still have been made by ministers. Again, I thank the minister for the concessions that he has made, because this was a matter of some concern to members of the Justice and Home Affairs Committee and to those from whom we took evidence.

Once again there is no appeal mechanism after removal or suspension. I heard what the minister said but I wonder whether he agrees, as evidence to the committee suggested, that that is likely to give rise to challenge. I would like the minister to comment in more detail on that in closing. As it is, the SNP's view is that such appeal mechanisms ought to be in the bill.

All members will have received letters protesting about the proposals that would effectively bar councillor justices of the peace from sitting on the bench. There are arguments for and against that. It is certainly unusual that JPs can be party political but sheriffs cannot—there is something of a contradiction there. There is conflicting evidence, however, on the need for an outright ban. It has been suggested that barring councillor JPs from adjudicating on cases involving the authority of which they are a member would have been sufficient. I would like the minister to say whether that was considered by the Executive before it came to the conclusion that an outright ban was the only way forward.

Finally, I am surprised by the omission of any mention of clerks of the court. I understand that while there has been no actual challenge to councillor JPs, there has been a challenge to the position of clerks of the court, who in the district courts are employees of the local authority. I should declare a past interest: in the 1980s I clerked in Dumbarton district court so I am well aware of their input, which is essential, vital and frequently welcome. JPs are not usually legally qualified and the clerks keep them right on the law.

I hear Bill Aitken laughing. He perhaps feels that that is not the case. I assure him that when I clerked in the district court it was the case. Perhaps the minister will explain why JPs are being legislated for and clerks are not, particularly since it is the position of the clerks that has been challenged.

The SNP will vote for the bill at stage 1, but our view is that there are serious issues that must be addressed before it reaches stage 3. The Minister for Justice has gone some way towards that, but there are other points that I hope he will take on board at stage 2 so that the bill at stage 3 is more acceptable. I hope that he and the rest of the Executive will take on board the very serious points I made as convener of the Justice and Home Affairs Committee about the time scales now imposed in two contemporaneous bills, which

lead one to the conclusion that the scrutiny powers of this Parliament are seriously compromised.

15:57

Phil Gallie (South of Scotland) (Con): Another day, another bill. Not another bill because our mission is to improve the lot of those who had a vision of this new Parliament transforming their lives to their benefit, but another bill necessitated by the Scotland Act 1998 and the rushed incorporation of the ECHR into the law of our land.

The Deputy Minister for Justice (Angus MacKay) *rose—*

Phil Gallie: I make no apologies to Roseanna Cunningham for picking up this issue, because it is another bill that will not be considered as carefully or as rationally as it should be, over a reasonable period of time, but has been introduced and will presumably be approved today at stage 1 in what can only be described as a desperate situation.

I will give way now.

Angus MacKay: I said to Phil Gallie in a previous debate that, despite his criticisms of the incorporation of the ECHR and its effect on domestic law, the Conservatives did not vote against the bill that became the Scotland Act 1998 on second reading or third reading, or during the Commons' consideration of the Lords' amendments. Nor did the Tories raise any objection, as far as it is possible to discern, to the proposition that the Executive and Parliament should be required to act in a way that is compatible with the ECHR.

Furthermore, the Conservative party did not vote against the second or third reading of the bill that became the Human Rights Act 1998. In the end, they gave the bill a fair wind and wished it well. It seems to be a little hypocritical to stand up now and claim we should not have incorporated the ECHR.

Phil Gallie: The Conservatives back in 1997 recognised that we had been defeated and we had no Scottish MPs. The Conservatives in the UK Parliament recognised that and took guidance from members who had previously been elected in Scotland. The House of Lords took a slightly different attitude. I understand that considerable argument was put up, and dangers pointed out, with respect to the incorporation of the convention. That apart, the fact is that this bill will be crammed through the Justice and Home Affairs Committee next week and returned to the chamber the following week for stage 3. I presume that, once again, it will be approved. That is no way to do business.

Yesterday, Wendy Alexander boasted of the number of bills—11 in total—that have been

passed through the Parliament in its first year. Those bills have been dealt with under what could be described as a philosophy of “Never mind the quality, feel the width”, necessitated by the blinkered actions of those responsible, to an extent, for the Scotland Act 1998. They were well warned of the effects that incorporation of ECHR would have on our legal system, but they pressed ahead, with no regard for expert opinion, in a way that is typical of the arrogant and dogmatic approach of the Government that manages the affairs of the United Kingdom and of Scotland.

The experts to whom I referred are eminent judges such as Lord McCluskey, sheriffs and the Law Society of Scotland. The minister referred to the Justice and Home Affairs Committee’s report, and I urge him to take on board the comments made by the sheriffs and the judges. Part of the evidence for that report was compiled before the publication of the bill that is before us today. It seems to me that that approach was totally the wrong way round. I would have expected the bill to be published and presented to the committee, following which evidence would have been taken. Roseanna Cunningham explained some of the reasoning behind the approach that was taken and talked about the suspension of standing orders. I repeat: that is no way to do business.

Irrespective of those difficulties, Conservative members will commit to doing all that we can to ease the procedural passage of the bill. We will attempt to ensure proper scrutiny of the detail of the bill and we will lodge amendments within the next 24 hours, to meet the crazy time scale and the 5.30 pm deadline for the lodging of amendments.

We recognise the need for speed, and were particularly concerned by the words of Sheriff Scott, which are noted in the committee’s report. He commented that justice is now provided in sheriff courts on a priority basis, and described a state of near crisis in the courts. Sheriff Wilkinson stated that the sheriffdom of Tayside, Central and Fife is in crisis. The target times within which summary cases are to be dealt with have risen from eight to 12 to 21 weeks in Edinburgh. In the words of Sheriff Scott,

“the figure creeps up all the time”.—[*Official Report, Justice and Home Affairs Committee*, 30 May 2000; c 1330.]

We register concern that none of the witnesses interviewed by the committee had been part of a consultation process in the lead-up to the production of the bill. Several witnesses informed the committee that, in their view, the bill as currently drafted will fall foul of the ECHR—despite its purpose being to overcome possible contraventions of the convention. Roseanna Cunningham addressed that issue earlier.

That issue alone heaps a considerable amount of responsibility on those who will participate in stage 2 of the bill and in the hasty return of the bill to the chamber, when every member of the Scottish Parliament should participate in the debate. We must not create an act in this essential legislative area that fails the ECHR test because, by so doing, we will undermine further the Scottish justice system.

Our amendments to part 1 of the bill will address bail in particular. We will seek to ensure that the bail laws are not weakened. I recognise that there are difficulties, given the effects of the ECHR, but we will ensure that our amendments will strengthen bail laws, where possible, and we will probe the implications of the detail of the bill. We welcome the minister’s earlier comments on police reports and on information for victims and witnesses, but will the bill refer to those issues? I suspect not. I suspect that they will form part of guidelines to be produced subsequently. Perhaps the Deputy Minister for Justice will respond to that point.

We regret the shambles over the temporary sheriffs. We will seek to ensure that, in part 2, chapter 1, section 6, the introduction of new section 11C to the Sheriff Courts (Scotland) Act 1971 does not induce the failure that Sheriff Wilkinson foresaw.

It is important to ensure that the Executive stands back both from the appointment of part-time sheriffs and from determining whether part-time sheriffs continue to serve. Once again, we welcome the words that the minister has come up with today. We will have amendments that will address those issues. No doubt the minister’s amendments will be well thought out and will possibly negate any that we will be able to produce. Nevertheless, we will lodge amendments to ensure that recognition is given to those points.

Some concerns, with which we identify, have been expressed about periods of appointment for part-time sheriffs. We also express concern about the hours that a part-time sheriff is expected to serve: not the minimum hours, but there is a need for a maximum level to be placed on part-time sheriffs.

Comments have already been made on part 2, chapter 2, on justices of the peace. To some degree, we go along with Roseanna Cunningham’s comments. Nobody appears to have mentioned part 3 to any degree, but the comments in general are welcome. Roseanna made a point about clerks in district courts for which she will find cross-party support. I trust that the minister will take that on board. I suspect that the haste with which this bill has been put together has caused the omission of the district court clerks’ position.

The Deputy Presiding Officer (Mr George Reid): We have just under an hour for general debate and only nine speakers, so speeches can be relatively generous by normal standards.

Christine Grahame (South of Scotland) (SNP): Oh no, please.

16:07

Pauline McNeill (Glasgow Kelvin) (Lab): This bill in three parts deals with subjects that are almost separate from one another. The common thread is to make certain that procedures, laws and appointments are compatible with the European convention on human rights.

To respond to Phil Gallie's point: the majority of the population welcomes the introduction of human rights across Europe—that is the basic thing that we have signed up to and we must not lose sight of that. There is a sense of urgency, because we must ensure compliance with the ECHR by 2 October this year. It is crucial that, in the rush, we get the legislation right, or we will be back here in the chamber re-proofing it in the future.

Bail conditions have been controversial in some respects and some concerns have been raised that the new provisions may lead to an increase in accused persons getting out of custody on bail. It is right to examine the impact of the new provisions and deal with any that we can foresee. The principle behind the change, however, is the presumption of innocence and the need for guilt to be proved in a court of law. The courts should deprive a person of their liberty carefully, with justification and in a consistent manner.

Part 1 of the bill amends the Criminal Procedure (Scotland) Act 1995 and places a duty on a sheriff automatically to consider whether bail should be granted on the first appearance of every accused person. That removes bail restrictions for certain serious offences. The amendment is the result of the ECHR decisions which state:

"The right of liberty and the right to release pending trial are not dependent on application by accused persons—this must be done promptly."

I understand why that worries some people, but their minds will be put at rest when they look at the way in which it will be implemented.

No person accused of serious crimes will automatically be released on bail. Professor Gane of Aberdeen University, in giving evidence to the Justice and Home Affairs Committee, had a number of useful things to say on the subject. At present the law makes it more difficult for individuals who are held in custody and charged with serious offences to get access to bail. Those differences will be removed.

I now want to address how bail will be granted. When accused persons appear before a sheriff or judge, bail will automatically be considered. The judge will have to consider the grounds for refusing bail, and that has to be done on common law. Reasons that are now ruled out include the gravity of the offence and the strength of the case. ECHR-related cases rule such reasons out.

The Scottish courts are already using criteria that are compatible with the ECHR, which include the risk of absconding, the likelihood of the individual interfering with a witness, the risk of the accused offending while released from custody and the interests of the prosecutor in pursuing the investigation against the accused. Criteria that may be applied, but which are less familiar, include the protection of public order or, in certain cases, the need to protect the accused.

I believe that, in practice, the prosecution will be bound to make the case for refusal of bail on the criteria that I have just outlined. If the prosecution has made its case in the first place, it can achieve the same results as under the current system. However, the defence cannot be complacent and expect a judge to grant bail just because it is requested.

I will now address the concerns of Victim Support Scotland and Scottish Women's Aid. I very much welcome the comments made by the Minister for Justice this afternoon, which are extremely useful, and the Justice and Home Affairs Committee raised the same theme that the minister did on a number of other issues.

We must ensure that we have a standard quality system, properly informing victims that an accused person has been released on bail. Although the committee did not take evidence from Scottish Women's Aid, its members would also point out cases of domestic abuse or cases in which a victim may be at risk. It is crucially important that a victim is properly and systematically notified. More work remains to be done in support of victims. This is a live issue, clearly established as part of the Executive's programme.

As to whether the detail of bail criteria should be stated in the bill, I do not believe that it is required, as Professor Gane suggested. Guidance has already been issued to sheriffs and judges, and I do not think that we need do any more than that.

I welcome the statement that there will be an increase in the size of the inner house of the High Court of Justiciary. I am on record, in previous speeches in the chamber, on the issue of judicial appointments, saying that I hoped that we would aim to make the judicial benches more representative of the population at large. I sincerely hope that the minister will use this opportunity to encourage appointments along

those lines.

The Starrs and Chalmers judgment ruled out the use of temporary sheriffs because it does not comply with the need to have independent and impartial tribunals. We will abolish the position of temporary sheriffs, and I am sure that many people agree that the system has been abused over the years.

In hearing evidence from the Sheriffs Association, the Justice and Home Affairs Committee came to the conclusion that the new provisions were not compliant either. There seems to be something in the evidence given by Sheriff Wilkinson and the other Sheriffs Association representatives. They were concerned about the differences between part-time and full-time sheriffs. We should examine that issue properly in the light of what has been said. Individuals coming before a court which will determine their innocence or guilt must be sure in the knowledge that, whether they come before a part-time or full-time sheriff, that sheriff is charged with administering justice, and the outcome is just the same.

The issue of district courts has been covered extensively by other speakers. It is quite a controversial area, and we must take action on it.

The current law says very little about the appointment of justices of the peace by Scottish ministers—it is therefore right that we should clearly set out appointment procedure in an act of the Scottish Parliament. In a report, the Subordinate Legislation Committee discovered that appointments had been set out in a small red book marked “in confidence”.

Some people take the view that we should examine more closely the implications of losing the vast experience of the councillor justices of the peace who are now to become signing justices.

Phyllis Hands of the District Courts Association, in giving her evidence, said:

“There are many other justices of the peace who sit on the bench and who are linked to the council in other ways, either by employment or through voluntary organisations that are funded by the council.”—[*Official Report, Justice and Home Affairs Committee, 22 May 2000; c 1303.*]

She may have been referring to the judgment that Roseanna Cunningham mentioned in her speech.

My view is that there is a less direct connection in the relationship between elected councillors and the district courts. It is, however, worth noting that the Justice and Home Affairs Committee felt that the Executive has not yet made a convincing case that there was a breach of the ECHR. We must be absolutely sure that there has been a breach and we must satisfy ourselves that more needs to be done.

In concluding, I believe that all those concerns

can be overcome. The approach that all parties in the chamber have taken this afternoon demonstrates that we can work sensibly through some of the areas that we are concerned about. With a bit of hard work we can, in due course, achieve what is needed. I welcome the bill.

16:16

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I should start by declaring a potential interest in that if I was, by any mischance, to cease to be a member of the Parliament, in theory I would be eligible for appointment as a sheriff.

Robert Brown (Glasgow) (LD): Re-elect him.

Fergus Ewing: I am bound to reflect that my becoming a sheriff is about as likely as the Prime Minister being made patron of the women's institute.

What we are seeing today is the Government following the Westminster Government and reaping what has been sown over a period of 30 years. As has been pointed out, the position of temporary sheriff was introduced to deal with the death or illness of a permanent sheriff, annual vacations or a declinature of jurisdiction. There has been a gradual growth in the use of temporary sheriffs to the point where there are 134 of them. That is because temporary sheriffs were not entitled to pensions and did not get the same amount of remuneration. We had temps because governments tried to get justice on the peace—on the cheap rather. [*Laughter.*] I see that members are all still awake.

This is not so much a case of virtue being rewarded as it is of parsimony being punished. The matter is serious. I have spent many happy hours in sheriff courts before various sheriffs and I can say that temps are not the real thing. Members might consider appearing in the chamber a nerve-racking experience, but anyone who has not appeared before Sheriff David Smith does not know that they are alive.

I hope that section 11A will achieve its intended aims. There should be regulations, not discretionary powers. The regulations must deal with unfairness to solicitors from places such as Glasgow, who have been excluded from the bench. They must deal with unfairness to people from ethnic minorities, who are hardly represented on the bench. The regulations must also deal with unfairness to female solicitors. That sort of unfairness has been going on for decades. We should deal with it now.

The main point that I want to address is on chapter 2. I participated in the deliberations on the matter in the Subordinate Legislation Committee. I

say to the minister that it seems to me that chapter 2 is lazy and callous. The Executive is removing at a stroke 88 justices of the peace because they are councillors. As the civil servants who appeared before the Subordinate Legislation Committee admitted, there are many other solutions available, but the Executive has chosen the easy option. They will wield the axe and get rid of the lot of them, just in case there is a distant prospect that there might be—in the perception of an unspecified person—a possible risk of non-compliance with the ECHR.

The committee considered the bill in some technical detail. The civil servant's first response to being asked why the provision in chapter 2 was necessary was:

"Our concern is with the financial link local authorities have with district courts".

When asked what the financial link was, another civil servant said:

"A reasonable person might reasonably perceive a possibility of bias."—[*Official Report, Subordinate Legislation Committee*, 6 June 2000; c 228 and 230.]

Why? It is because JPs impose fines and fines go to local authorities. According to that civil servant, JPs might benefit. JPs do not benefit, however. The councils benefit from fines—JPs do not get a penny whether they impose a fine of £50 or £100. It makes no difference to them. One might as well say that any member of a community benefits if a fine is set at £100 rather than £50, and that no member of the community can, therefore, be a JP, because they might benefit if the council gets another 50 quid.

I ask members—

Gordon Jackson (Glasgow Govan) (Lab): Will the member give way?

Fergus Ewing: In a second. I was about to ask myself a rhetorical question of the sort with which Gordon Jackson is familiar.

Is it really the case that a reasonable person will say that a JP, usually of many years' experience, will be influenced in the way described? I think not. That is a flawed argument.

The Subordinate Legislation Committee did not pursue this issue in a political way. Objections were made by other members, some of whom are in the chamber. Jettisoning 88 respected, respectable and long-serving judges who have done a difficult and thankless job in our courts is an act of callousness and laziness. I hope that the Executive will reconsider that.

Gordon Jackson rose—

Fergus Ewing: I was about to sit down, but if Gordon Jackson really wants to ask me a question, I am happy to respond.

Gordon Jackson: I do want to ask the member a question. There is a principle that judges should not be engaged in day-to-day politics. It applies to sheriffs and to judges, and I think that Fergus Ewing would accept it. Why should it not apply to these judges? They are now making more important decisions than they have ever made. The cases that come before district courts now are more serious than those that came before them 30 or 40 years ago. Why should the principle to which I have referred not apply to part-time sheriffs in the same way as it applies to every other judge?

Fergus Ewing: I accept that that argument can be made. However, under the existing system no successful challenge has been made to JPs on those grounds. I remind Gordon Jackson of the arguments that were put previously: namely, that one way of dealing with the problem, without axing 88 JPs, would be to require them to decline any case in which the local authority was directly involved. Surely that would be sufficient to protect those 88 JPs against any threat of non-compliance with the ECHR.

16:22

David Mundell (South of Scotland) (Con): Unusually, I intend to echo much of what Fergus Ewing has said. I will also deal with two points that Gordon Jackson made.

First, when the Subordinate Legislation Committee raised the issue of political appointments with one of the civil servants, she answered clearly:

"Our concern is not with the fact that councillors are political appointees. Our concern is with the financial link local authorities have with district courts".—[*Official Report, Subordinate Legislation Committee*, 6 June 2000; c 228.]

Secondly, surely it would be more appropriate to discuss the possible political issues surrounding justices within the context of the review of district courts that the minister has announced. The measure as set out in the bill is putting the cart before the horse. The Executive has announced its review, and I understand that at the moment councillor justices are not serving on the bench in Scotland. Why do we not await the outcome of the review, rather than rushing ahead with this measure?

Justices in rural areas are in a very different position from their counterparts elsewhere. That is why councillors are well equipped to serve in those areas and why many of our rural councils use councillors as JPs. A JP in a rural area is not an anonymous person in the way that JPs in urban communities often are. JPs in small towns and country areas have a high profile. One of the biggest differences between district courts in country areas and district courts in city areas is

that every case that is heard at Annan district court, Lockerbie district court and district courts in small towns across Scotland is reported in detail in the local paper and the justices are named. It is not a case of people saying, "I want to do my bit for the community, but I want to remain anonymous". If someone puts themselves forward as a justice in a rural community, they will have a profile in that community. It requires a special sort of person to accept that, and councillors have done so.

My other point, having spoken with Dumfries and Galloway Council and South Lanarkshire Council, is that people are not queuing up to be justices, particularly in our more rural communities; therefore, to summarily get rid of the 88 justices is ill conceived.

Fergus Ewing has gone over the evidence that we heard in the Subordinate Legislation Committee. I will not restate it, because I am sure that members will have read the *Official Report* of the committee meeting on 6 June, which was a record meeting for us, lasting more than the standard six minutes. At that meeting, on every occasion on which those who were giving evidence were challenged, they made it clear that there was no political issue, and that there was currently no suggestion that the appointment procedure was incompatible with the ECHR.

The problem was the financial link with fines. Without wanting to appear unduly arrogant, I will quote from myself. I said, in relation to the point about councillors imposing higher fines so that the council could get some extra cash:

"Why would a well-intentioned citizen"—

who was not a councillor—

"who is a justice of the peace not think that too and say, 'What about a few extra quid for the local council?'"—
[*Official Report, Subordinate Legislation Committee*, 6 June 2000; c 230.]

and impose a higher fine.

The point that Fergus Ewing made is an apt one. If we go down this line, we will end up with nobody being capable of being a justice. The Scottish Executive would do the public, and particularly the public in rural Scotland, a lot more good if it was willing to hold the line on this issue and say, "Yes, we have a group of experienced people here who are doing a good job, with whom generally there has been no suggestion of a lack of impartiality, and who are providing a local justice service." That is one view to which all members would subscribe; people should be entitled to have justice locally, without travelling 50 or 100 miles for their opportunity to appear in court. The Executive would be defending the corner of justices against some of the more preposterous arguments that might be put forward to link justices with the

ECHR.

I ask the minister to step back from this issue. He has said that he will have a review. He should look at these issues in the context of the review, but he should not rule out councillors from being justices at this time. It is too soon, and it is a great disservice to those people who have put a lot of effort into serving their communities as both councillors and justices.

16:28

Gordon Jackson (Glasgow Govan) (Lab): This is quite a good bill, or at least it will be on Tuesday by the time it has been amended somewhat. I welcome it, partly because we are doing something to comply with ECHR. We must always do that, but we must not get too hung up about it. We also do things because they are right. By and large, what we are doing in this bill is quite good.

On the issue of bail, the fact that we need to change our bail regulations to comply with the ECHR is undoubtedly necessary. The present position that bail cannot be obtained in certain situations would never be ECHR compliant, and I do not think that anyone is arguing against that.

The second issue that I wish to address—although no one has raised it, and I am not suggesting that Phil Gallie has—is that we should avoid any suggestion that making these changes will somehow flood the streets with people who are a danger to the public. That view has no substance whatsoever. I say that because that fear was mentioned to us on the Justice and Home Affairs Committee, and it is a fear that we all understand and want to deal with. But the reality is that people who at present should not be out will not, under these provisions, be any more likely to get out.

The reason we are making the change is that in the past we had an odd situation. We had people who, on any view, should not have been in custody, but because of the narrowness of the law, it took a long while and very tortuous procedures to get them out.

I give two examples. I remember a 13-year-old who had a developed age of about eight—he was tiny. Because we were inquiring into something that might turn out to be serious, he had to be taken away by two police officers. Everyone thought, "This is quite ridiculous", but there was nothing we could do about it.

I remember a woman who had been a victim of domestic violence, abused by her partner, for many years. There was a tragedy, and the partner died at her hand. She was eventually released back into the community. However, she could not get bail and was sitting in Cornton Vale. She was

100 per cent blind, but the jail had no facilities for her. A whole family support group was willing to look after her, but although everyone thought that we should remove her from the jail cell, back into that family, we could not do it.

Those were straitjackets on the system. What the minister is trying to do with the bail legislation is not only to make the system compliant but to make it that bit more flexible. That is a good thing.

Other issues, such as part-time sheriffs, are perhaps even more contentious. Temporary sheriffs have disappeared—I have said before in the chamber that I did not mourn their passing. Whether or not they were ECHR compliant, they were not, in some ways, a good thing. I think I can see Fergus Ewing nodding at that. However, ending temporary sheriffs created a problem, which needed to be solved. On balance, this is quite a good way of solving it.

Phil Gallie: Gordon Jackson said at the beginning that he thought that the bill was good and that it was necessary. Perhaps he is right, in that the measures within the bill are, ultimately, necessary. However, does he agree with Roseanna Cunningham and me that the way in which the bill is being addressed is being forced upon ministers? Many of the measures he is talking about could have been more thoughtfully addressed in a more reasonable period of time.

Gordon Jackson: As a member of the Justice and Home Affairs Committee, I would be the last person to abandon the line that we are overworked. We are overworked—we have too much to do sometimes. We are doing this quite quickly, but although I do not want to minimise the issues, they are not the most complex; they have a fairly short focus. I accept that Mr Gallie perceives a problem, but I do not. We are not too short of time for proper consideration of the issues. I would be the first to criticise if I thought that we were.

I hope that part-time sheriffs will be an advantage, but I flag up a warning, as others have, about how it happens. I hope that it will be an opportunity to get people into the job who should be there and—dare I say it—not an opportunity for sheriffs who are coming up to retirement to supplement their pension. That is a real danger. We must watch how the system operates.

I am delighted about the changes. The question of how the temporary sheriffs were to be disciplined was not satisfactory, nor was the business of their reappointment. Whether or not they were compliant with the ECHR, they were not good, and the changes that Jim Wallace has announced are to be welcomed. On a slightly churlish note, though, Jim announced them as if he had invented them. However, we in the Justice and Home Affairs Committee made it clear that we

would not approve the bill unless the changes were put in place.

On David Mundell's point about the justices, I do not care much one way or the other. It is not the most serious issue in our legislative programme. However, on balance, it is better to get rid of justices who are councillors. A long time ago, we had the system where the bobby gave the wean a clip round the ear and the bailie fined someone a couple of quid in the community. That approach is outdated.

Our judges are not political appointees—that is not the problem—but nor are they involved in day-to-day politics. That is not to say that councillor justices did not do a great job—some of them did. I had to say that, or Bill Aitken would never buy another round. That is not the issue. It is time that the situation was changed. I welcome the legislation. We will get it through quite quickly next week, because most things have been agreed. Overall, it is a good piece of legislation.

16:35

Robert Brown (Glasgow) (LD): I begin by declaring an interest in the bill, not because, in common with Fergus Ewing, I have little chance of being elevated to the bench, or because I will require bail in future—at least, I hope not—but because of my association with Ross Harper and Murphy and my membership of the Law Society of Scotland and the Scottish Law Agents Society.

As a lawyer, I find it extraordinary how fast the law is changing, and with it the familiar landmarks that some of us knew in our youth. I was once a procurator fiscal depute in Dumbarton, and later a defence lawyer. In those days, it was accepted without question that people accused of murder did not get bail; the fiscal could block bail on petition cases for seven days. It had been that way for a long time and nobody really questioned how it fitted in with the presumption of innocence, far less with concepts of human rights.

In my days as a defence solicitor, I appeared before a justice, who was not a councillor justice but one appointed the other way. She was given what was clearly unpalatable advice by the clerk that she must find the defendant not guilty because of lack of evidence. She said, obviously with some reluctance, "I am told I've got to find you not guilty, but you're admonished." There was, perhaps, a certain reluctance on the part of justices to do as they were told by their legally qualified assistants.

The pertinent point is not the technical issue of whether bail provisions are ECHR compliant. We should be concerned with the spirit of the ECHR, which provides a framework for our consideration of these issues. We should be making changes

not to make the law ECHR compliant, but because it is the right thing to do if our law is to be adequate, modern, up to date and the sort of thing that we want to emanate from the Scottish Parliament. Although it may be a nuisance to the Executive and even to the convener and members of the Justice and Home Affairs Committee, it is important that we stick to the spirit of the ECHR as well as to the letter. The suggestions made by the minister today are extremely welcome, and take us a considerable way forward.

I associate myself, to a degree at least, with the comments of those who have expressed concerns about the timetable for the bill. Gordon Jackson is right to say that the issues raised are in relatively short focus. Having said that, I do not consider it acceptable that only a day is allowed between stage 1 and stage 2 for amendments to be lodged. A longer period than that should be allowed. That is not routine in this Parliament, but it is a feature of this bill's progress.

The bill is an important bill that represents one more step in an important programme of modernising and liberalising Scots law. That was, after all, one of the great causes for which the Parliament was established, and we should recognise that.

I shall make a couple of detailed points that have not come up so far. The first relates to section 6, which inserts new section 11A into the Sheriff Courts (Scotland) Act 1971. Proposed subsection (8) of that new section, which relates to the pay of part-time sheriffs, states blandly:

"The Scottish Ministers shall pay to part-time sheriffs such remuneration and allowances as they determine."

I have slight qualms about that. I am not entirely certain how the pay of sheriffs is determined, but I think that there ought to be some degree of separation between the ministry on the one hand and the payment of sheriffs—even part-time sheriffs—on the other. An independent form of remuneration fixing, which will probably exist, ought to be inserted into the bill.

My second point concerns local authority prosecutions, which are dealt with in section 10 of the bill. It may be that local authority prosecutions should no longer exist, as there are a number of technical difficulties with them. At the same time, those of us who have been councillors recognise that there have been long-standing irritations over the years about the difficulties of getting the procurator fiscal's office to prosecute on what are undoubtedly seen as minor offences by the fiscal's office, but on which the council, with its wider policy remit covering multiple occupancy, education and so on, may take a rather different stance.

If there is to be an abolition of the right of

prosecution by local authorities, it must be accompanied by a close examination of how the fiscal service operates in this role. More resources must be put into the situation, perhaps a separate department in the fiscal service in larger sheriff courts for dealing with those matters, closer liaison with the councils on the way in which they go forward and the policy that the council must seek. The meetings that there have been over many years between the fiscal department and the councils have not been all that effective in establishing long-term changes in the way in which this takes place. I ask that the department of justice examine this aspect as a matter of urgency, in association with this change.

My final point is on ECHR impact assessment. I know that we have the policy memorandum that goes with the bill, but I think that it would be extremely helpful—especially when we are, as yet, lacking a Scottish human rights commission—if it included a detailed human rights assessment impact study by the Executive, not only on this bill but on all bills, which would direct the attention of members to the issues and the way in which the Executive has approached them.

Having said all that, the bill is welcome. It is a considerable part of the law reform process of this Parliament. The bill goes a long way to answer some of the ECHR criticisms and, along with the amendments made by the minister and perhaps taking on board one or two of the comments made by members today, it will be a creditable addition to the legislative format of Scots law. To that degree, I beg to support the motion.

16:41

Dr Winnie Ewing (Highlands and Islands) (SNP): I am full of admiration for all those who served on the Justice and Home Affairs Committee, when I see the amount of work that they have done and detail that they have had to apply their minds to. I congratulate them and the convener of the Justice and Home Affairs Committee, Roseanna Cunningham, who made such a distinguished contribution.

Like other members, I must declare an interest. I am Fergus Ewing's senior partner. For that, I get no remuneration whatsoever, but my name is on the notepaper, which he likes for some reason, and for that privilege I pay enormous sums of money to the Law Society of Scotland, so that I can be jointly, severally and responsibly liable for any defaults that he and my daughter Annabelle, who is his partner, care to make.

Another interest is that I was secretary and then president of the Glasgow Bar Association. Ross Harper, whom Robert Brown mentioned, was one of our distinguished presidents at one time. We

fought on this issue of shrieval appointments and, to some extent, we were successful. Originally, it was young Edinburgh advocates—no harm to Lord James Douglas-Hamilton, who is not just so young as he was when I first instructed him. We used to say, “Let us have no more of those beardless Edinburgh boys on the bench.” We were totally devoted to that and we succeeded. The whole system changed for the better, although it may not be good enough yet, as there might not be enough women and ethnic minorities. However, it is definitely a changed system from when the Glasgow Bar Association came into existence.

On part-time sheriffs, I would issue the warning that this will not necessarily meet the challenge of the ECHR, although a lot of what the Deputy First Minister said today has gone a long way towards doing so. I had a note down to complain about the removal and the nature of the tribunal, but that is to be changed.

On reappointment, there is a proposal that that is to be changed to some extent. I could see a flaw in a part-time sheriff looking ahead and thinking, “Will I be reappointed?” It could be argued that that could affect his conduct of cases that he sat on. However, some automatic reappointment would take that away.

I noticed that one of the possible exceptions to automatic reappointment would be the recommendation of the sheriff principal. I think that is what the Deputy First Minister said—I had to write all this down as Mr Wallace read it out. Other exceptions would be if the part-time sheriff was 69 and if he had failed to sit for 50 days during the five-year period, but I think that is bringing us back into the danger zone. After all, look at Lord Cullen’s opinion on temporary sheriffs. They did not have security of tenure; they could be removed at will. Now there is no right of appeal, as was mentioned earlier. Those are all worrying aspects.

There is also the question of the convention suggesting that the judiciary should be independent not just in security but in remuneration and pensions. I am not sure that it will be independent in that respect, as I do not think that there is going to be a pension. Again, it seems that we are getting justice on the cheap.

On the question of remuneration, there has been some discussion of solicitors acting as part-time sheriffs, but there is silence about solicitor advocates acting in that capacity, although that is a recognised category that did not exist before. What about advocates acting as part-time sheriffs? They are subject to the discipline of the dean of the Faculty of Advocates. Will they be subject to the dean, the sheriff principal, or both?

New section 11A(6), on the appointment of part-time sheriffs, says that they will be subject to

instructions and other provisions that are made by the sheriff principal. Anybody who has been in a busy practice will know that that is a nonsense. It is the sheriff clerks who allocate the cases and call up the need for a sheriff. The sheriff principal does not know about that—I think that my legal colleague Robert Brown is nodding in agreement—and cannot be in control.

On bail, I agree that there should not be a statutory right to bail. I am pleased that people do not have to make an application for bail. How painful it has all been in my memory of cases. Like Pauline McNeill, I do not believe in statutory guidelines as I do not think that they will solve problems. Certainly, that is the view of the Sheriffs Association.

On the issue of exclusions, I agree with Gordon Jackson. The victim has been mentioned. The victim should not have the automatic right to appear—that would be cumbersome and would make the chaos in the courts worse. However, I agree that victims should be informed, in good procedure, of the release on bail of someone who had harmed them.

I will end by saying that we cannot get justice on the cheap. The solution is to accept that we need more sheriffs and to pay them. We should accept that paying sheriffs the proper salary that they attract is the cost of justice. We should not try, as we used to do with the temps, to get justice on the cheap.

I agree that there should be a Scottish human rights commission.

16:48

Lord James Douglas-Hamilton (Lothians) (Con): It is a pleasure to follow Winnie Ewing, as she sent me my first case as an advocate, which I remember vividly. The advice that we had at that time was: if the facts are against you, stick to the law; if the law is against you, stick to the facts; and if the law and the facts are against you, give somebody hell. I cannot claim that I practised with Gordon Jackson, but I did with Nicky Fairbairn. The general view of Nicky Fairbairn was that, if one were guilty, one should go to him, but if one were innocent, one should avoid him like the plague.

The overwhelming consideration in the bill on bail is protection of the public. We welcome the bill, subject to reservations. The removal of the statutory bail provisions means that a sheriff has to exercise his or her discretion in accordance with the common law and, from 2 October, with Strasbourg jurisprudence. In practice, the common law would discharge a sheriff from exercising his or her discretion to release persons who are charged with serious sex crimes or crimes of

violence and who have previous convictions, in the absence of exceptional circumstances. That is much the same as what Gordon Jackson said.

However, the significant weakness in the bill is the absence of statutory bail criteria. Professor Gane was concerned that the bill did not specify where the burden lay in establishing whether bail should be granted, or which standard should be applied in making the decision. The Scottish Rape Crisis Network asked for statutory guidelines. I know that the minister is not enthusiastic about that, but an argument for having such guidelines is that it would be much more likely that they would be applied consistently throughout the country.

There is also the issue of giving reasons for bail decisions, which would have two advantages. First, it would help those who were in the court to understand clearly and appreciate the reasons. Secondly, it would be of great assistance to victims. This is a sensitive point, but it is obvious that victims like to be informed of when their assailant will come out of prison. On one occasion, I represented a woman who had been severely disabled for the rest of her life in a physical attack. She was convinced that if she had known when her assailant was coming out of prison, she would have been able to take measures to protect herself.

In bail cases, it is important to keep the victim fully in the picture. Victim Support Scotland wanted the bill to include a requirement to inform victims about the bail process and the outcome of applications, including any conditions that had been attached to the granting of bail. That would provide protection to the public and should not be disregarded lightly. I hope that that will be addressed during the next stages of the bill.

The bill states that sheriffs can be removed on grounds of

“inability, neglect of duty or misbehaviour.”

I very much hope that nobody would be appointed as a sheriff in the first place if they suffered from inability. However, if sheriffs are to be subject to dismissal, it seems right that they should have a right to appeal. I understand that the Sheriffs Association would accept a mechanism that

“left the removal of part-time sheriffs essentially in judicial hands”.

The Law Society of Scotland has made it clear that it is of the view that the same procedure should be adopted for the removal of part-time sheriffs as for the removal of full-time sheriffs, to ensure “uniformity of procedure”. It also feels that there is a case for part-time sheriffs having a right of appeal.

Another issue to be considered is the fact that the sheriffs do not have permanent contracts.

There is a case for them having such contracts. It has been alleged that the reason that they do not have them is that the Administration does not want to fork out for their pensions. That is not sufficient reason. Part-time sheriffs should be treated better than that. Sheriffs have taken a substantial blow, with more than 100 temporary sheriffs being made to give up. As the position is now being regularised, there is a case for ensuring that sheriffs are given permanent part-time contracts, even if that involves pensions.

I hope that the minister will consider those matters sympathetically. The bill is a step in the right direction. We welcome it, but we think that some amendments are necessary to take into account the needs of the practitioners at the sharp end of the profession.

16:53

Malcolm Chisholm (Edinburgh North and Leith) (Lab): I start by congratulating the Justice and Home Affairs Committee on producing another superb report, despite the difficulties under which it laboured. The report is another example of the massive superiority of this Parliament over Westminster in stage 1 consideration of bills. A large number of people have already given evidence on the record, and the Executive has made changes as a result of that evidence and the Justice and Home Affairs Committee’s report. Stage 1 in committee also allows people like me, who are not members of the Justice and Home Affairs Committee, to gain some knowledge of the issue before the stage 1 debate.

The bill raises two general issues, which are similar to the issues that have come up in relation to the cross-examination of rape victims. The first is the European convention on human rights, which in many ways drives the bill. I want to make it clear that I absolutely welcome the convention and its incorporation into British law. It is the misuse of the convention that I have objected to in relation to cross-examination.

The other issue is the relationship between politicians and the legal system. With the cross-examination issue, we started to see many lawyers beginning to try to frighten off politicians from their territory. We have to be absolutely clear that we have an important role to play in relation to criminal procedures—we must do more in that direction. However, there should be a strong distinction when it comes to individual cases. Of course, many of the changes in the bill aim to separate the conflict of interest that may arise if politicians are too directly involved in individual legal cases.

I welcome the changes that are to be introduced

in relation to part-time sheriffs; the strict separation was not enforced in the original bill. There may still be issues surrounding the action for the removal of a part-time sheriff being initiated by ministers and the right of appeal in such cases.

There are related but different issues of councillors who are justices of the peace. I do not have a view on that in relation to the European convention on human rights, but I tend to agree with the unease of the Justice and Home Affairs Committee about the blurring of the boundary between the judicial and the political.

Bail, however, is a completely different matter. Some members thought that the debate about statutory guidelines ended yesterday, but I note that we have a formidable coalition of Professor Gane, the Rape Crisis Network, Victim Support Scotland and now Lord James Douglas-Hamilton, arguing in favour of statutory bail guidelines. I must say that I agree and would join that coalition. As Professor Gane said to the committee, guidelines are a legislative matter that should not be conceded to the judiciary. If the Executive does not agree with that point, it must show how it will ensure consistency in the granting of bail.

I welcome Jim Wallace's announcement on the right of victims to be informed when an accused has been given bail, although I wonder why that has not been put in legislation. Clearly, there are many related issues, such as the conditions that are attached to bail being clearly explained to the victim and to the accused. I welcome the Justice and Home Affairs Committee's suggestion that such conditions could be read out in court. There are also many enforcement issues to consider, although they are not appropriate to the bill.

My final point relates to victims giving information in relation to their safety and well-being prior to any bail consideration. Jim Wallace suggested that there would be some action in that respect. Perhaps Angus MacKay can clarify that in his closing statement. That was the main point that was made in Victim Support Scotland's evidence. I note that in talking about that evidence, the Justice and Home Affairs Committee referred to a "victim impact statement". However, I do not think that that was what Victim Support Scotland had in mind. Victim impact statements have American connotations and the victim statement would not give views on bail or sentences, but would simply give information about worries that the victim may have about the accused. I notice that there has already been a judgment in the European Court against the UK Government—*Osman v United Kingdom*—because the UK authorities failed to ask a victim about their worries concerning the accused.

I welcome the bill and the work of the Justice and Home Affairs Committee in making it a better

bill. Many of us will keep our eyes on the bail issue in particular to ensure that the rights of victims are strengthened.

16:59

Mr Kenny MacAskill (Lothians) (SNP): I echo the comments of my colleague Roseanna Cunningham: it is important that the committee structure be taken into account, because it is one of the strengths of the Scottish Parliament. We should be able to knock about ideas, take evidence and consider matters in a consensual forum. The democratic process is endangered if we try to push matters too quickly—the checks and balances break down.

The Subordinate Legislation Committee had to deal with the bill apace. I welcomed the fact that we took oral evidence. One of the things that I enjoyed in my 20-year experience of being a solicitor was cross-examination, and having witnesses in the Subordinate Legislation Committee added to that enjoyment.

The three aspects of the bill should be considered separately. First, in respect of bail, my colleague Winnie Ewing touched on the question of process. The anomaly that existed, whereby someone who was already in custody could not receive bail on another matter, has been addressed. That situation was rather perverse. We should realise and appreciate that bail is a question of rights and obligations. It should be a citizen's right if he faces an allegation; similarly, if trust is put in that citizen by the sheriff, the citizen is obliged to abide by those criteria. If someone is in custody on another matter, a sheriff should not be precluded from deciding on bail because an obligation has been put on a person to abide by matters, whether or not he is subsequently released.

There should be guidelines for sheriffs, but it is important that the decision should remain at the sheriff's discretion. During 20 years in the law, I began to realise more and more that sheriffs had a master of their brief, knew where they were coming from and, in the main, considered matters sensibly and rationally. As a result, that element of discretion should remain with them.

Lord James Douglas-Hamilton and Malcolm Chisholm raised points about the second aspect—the treatment of victims. It is not appropriate to put a victim's statement to the sheriff; that matter is best dealt with through the office of the procurator fiscal. However, we must recognise that the system should be changed, and I hope that the minister will address that.

It is clear that there is intimidation in Scotland. For 20 years, I have practised within the jurisdiction of the city of Edinburgh and elsewhere,

and I know that victims are intimidated. I once represented a woman who had allegedly been raped. She met the perpetrator, who lived in the flat opposite and had been released on bail without her knowledge. People face intimidation in whole areas of our country. An example of the intimidation that is faced by witnesses is that when we enter Edinburgh sheriff court on Chambers Street, we go through a metal detector as in an airport. We have to take cognisance of that situation and, moreover, realise that mental as well as physical intimidation is involved when witnesses meet accused people on the street.

As for sheriffs, the Executive amendments might address some problems. Although I will reserve my judgment, the Deputy First Minister's opening speech addressed many of the points that I would have raised. However, the principal point about sheriffs is that a sheriff is a sheriff. Part-time sheriffs should be treated exactly the same as full-time sheriffs. Although there might be differences in wages or pension entitlements, that should not take away from the fact that a person remains a sheriff, and how they are appointed and arraigned should remain the same. That applies in most other jobs, whether full-time or part-time, and should certainly apply to the important position within our democratic process of a sheriff. I regret that we are viewing temporary sheriffs differently from permanent sheriffs.

On the issue of justices, it was made clear during an evidence session at the Subordinate Legislation Committee that it is important to examine the whole nature, ambit and remit of the district courts. Having practised in some of those courts, I feel that some of them should be physically done away with, because they are not acceptable in the 21st century and, in many cases, were not acceptable in the latter part of the 20th century. Of course we must investigate that issue, just as we must take into account the fact that there have been demographic and geographic boundary changes in Scotland. Courts are located in places where the population no longer exists to the same extent and, as a result, we need to change the district court structure.

The real problem that was flagged up at the Subordinate Legislation Committee was that, because there did not appear to be an immediate crisis with ECHR compatibility, we did not need to deal with the situation now. As a result, I do not see why we are rushing ahead with the justices issue. I am open minded about the running of the courts and about questions such as who should preside in those courts, how they should be clerked, where the funds should go and where the buildings should be located. Depending on the priorities of the minister and his colleagues, the Parliament needs to consider those important questions over the next few years. Unless there is

an immediately urgent situation—which was not suggested at the Subordinate Legislation Committee—we should not go ahead piecemeal. Let us examine the panoply of aspects of district courts and their place in our judicial system in due course, not rush to fix something where there ain't a problem at the moment.

17:04

Euan Robson (Roxburgh and Berwickshire) (LD): It is fair to say that the timetabling of this bill has been the most difficult so far. In the light of that—and the rather late lodging of an eight-page amendment to the Ethical Standards in Public Life etc (Scotland) Bill—I raise a mild back-bench protest that the principles of the consultative steering group are in danger of being breached. However, I recognise the importance of the bill and the fact that it has to be put on the statute book.

I accept that the changes to bail exclusions are both necessary and inevitable. Copious evidence was given to the Justice and Home Affairs Committee on that score. I agree that the introduction of statutory criteria for bail is unrealistic. It might be possible to introduce such criteria in years to come, but the evidence persuaded me that, because we are in a period of change, it would be impractical at present.

I welcome the acting First Minister's statements about victim notification. It is important that we get that right. Some of the most moving testimony that the Justice and Home Affairs Committee heard has been from victims' representatives. Improvements in that area will be welcome.

I welcome the minister's proposals to amend the bill to ensure that we can avoid the challenges to the part-time sheriffs that the committee predicted might be made. We will have to review the amendments with care, but the minister's statement gives grounds for optimism.

Phil Gallie rightly alluded to problems in sheriff courts. The waiting times that were published by the Scottish Parliament's information centre show the effect coming through of the recent full-time appointments. There are significant exceptions among the sheriff courts and the minister should consider them in detail. The waiting times in the sheriff courts in Alloa, Cupar, Dundee, Kirkcaldy, Stirling and Perth are out of line with a number of the other courts. In Perth, the delays for criminal cases are consistently longer than those for civil cases. At the outset, however, it was clearly determined that that should not happen. Why is Perth an exception?

I was interested in Robert Brown's comments on local authority prosecutions and echo his view that, if the system is to be replaced, there must be

changes to ensure that that business is dealt with effectively. There should be amendments on that score at a later stage. Like Pauline McNeill, I welcome the proposal to increase the numbers in the inner house.

I was in a minority of one in the Justice and Home Affairs Committee in thinking that the Executive had made a case—not a great case, but some form of a case—on councillor justices. The question is genuinely more one of perception than practice. The perception should dictate what we do in this circumstance.

I think that all judges should be outside the political process. A way of doing that would be to recognise the valuable service of those who are currently engaged in service. I agree with Fergus Ewing's point that many people give up a lot of time. One way of recognising that would be to say that, although there will be no more councillor justices, the current ones can continue to serve until they retire. Perhaps we can examine that issue at stage 2. There are no grounds for saying that the district court system will collapse if the councillor justices are removed. That is clearly not the case, as they make up only about 10 per cent of the justices and replacements have been trained, as the acting First Minister said. Overall, change is necessary and, while it might have been better to deal with the issue along with changes that are proposed during the review, on balance, I feel that it is better to tackle the issue now.

The bill is to be welcomed. It is necessary, and I have no hesitation in commending its principles to the chamber on behalf of my party.

17:09

Bill Aitken (Glasgow) (Con): It has been a long day, so I will eschew the usual condemnation of the ill-thought-out and hasty incorporation of ECHR regulations into Scots law, but it is not good enough for Jim Wallace to arrive here at the 11th hour to pull his chestnuts out of the fire by proposing last-minute amendments to the bill. Once again, the Executive is introducing legislation that has been ill thought out and badly prepared.

I will now consider the bill and the terms and conditions of those who are released on bail following petitioned appearances at the sheriff courts. All legislation has operated on the assumption that everyone is presumed innocent until proven guilty. What has been presented today does not change or strengthen that. I do not accept the argument that it will result in those who face serious charges—when there is a danger of their being at liberty, pending trial—walking the streets. We must consider the matter carefully.

I am attracted by the suggestion that there

should be statutory grounds for the refusal of bail. It is inevitable that there will be appeals; that is the nature of the beast. Although the law is fairly comprehensive in that respect, it is not at such a stage of sophistication that we can be certain—as we should be in cases in which the human element is important—that matters will be dealt with as we would wish.

I now come to the matter of part-time sheriffs. I was intrigued by, and fully approved, many of the comments that were made by Kenny MacAskill. I was intrigued that someone who has been involved in the legal profession recognises the real difficulty that exists. We must look for a fairly simple solution to a complex problem. That solution is: as someone who is appointed as a part-time sheriff does the same job as a full-time sheriff, they should enjoy the same terms and conditions of employment. If the Parliament seeks to do other than that, we will leave ourselves open to charges of imposing justice on the cheap. I am certain that the Administration does not want that to happen, but there is a real danger that that will be the public perception of what it is trying to do. Sheriffs who are appointed part time should, in the terms and conditions of their contracts, have exactly the same rights as full-time sheriffs.

One significant aspect of the removal of part-time sheriffs is not ECHR compliance, but the involvement of the sheriff principal. The sheriff principal may not be intimately acquainted with the work of sheriffs who are serving on a part-time commission. Most of them will operate on a floating basis, so no sheriff principal will know the strengths and weakness of each of them. That argument could be raised if there is no appeals procedure. That issue should be examined before the bill proceeds to its further stages.

My next point concerns the district courts. I feel very uncomfortable about it—I am sure that he does, too—but I agree with Kenny MacAskill that there is a simple solution to this problem. The Executive has agreed that there will be a full review of how district courts operate. Why, therefore, are we debating the matter just now? Why can we not wait? It is preposterous to suggest that any council-appointed justice of the peace would be influenced in any way by the fact that his local authority would benefit from the imposition of fines.

Gordon Jackson was wrong on one point: there has been no significant change in the number of serious cases that are dealt with in the district courts. In fact, the opposite is true. Such is the Executive's lack of commitment to pursuing law and order that the vast majority of the cases that are heard in the district courts are statutory cases in which, in some instances, the local authority receives 1 per cent of the fine income. When I last

sat on the bench, it seemed absolutely incredible that very few common law cases were being prosecuted while the prostitutes and road traffic offenders were being prosecuted relentlessly.

Gordon Jackson: Does Bill Aitken accept that those so-called statutory cases can have tremendous importance for the people involved? Do not trivialise them; to the people involved, they are serious matters.

Bill Aitken: I do not deny that for a moment. I am merely trying to point out how senseless it is to pretend that finance is an influence on any justice who imposes fines in statutory cases because the amount the local authority takes from those fines is a maximum of 10 per cent. The argument is spurious.

I suggest that the simplest way to deal with this issue—it will come out in the review—is to consider whether the Scottish Courts Administration should take over the running of the district courts. That is a simple, straightforward and expedient solution to the problem, and I commend it to the Executive.

17:15

Christine Grahame (South of Scotland) (SNP): I will preface my remarks by saying that I will not tell any of the very bad jokes that people have been giving me to try to liven up this debate.

Angus MacKay: Oh, go on.

Christine Grahame: No—but I will write to Angus later.

I echo Gordon Jackson's statement that the Executive's amendments are to be commended—but be fair to us, minister, they did not come out of the blue; they came because members of the Justice and Home Affairs Committee said that they would support the bill at stage 1 only if significant amendments were made, especially in relation to part-time sheriffs. Having seen that red flag, the minister went ahead with the amendments. That is to be welcomed.

If I may say so, the Executive was a bit sloppy with the policy memorandum that accompanied the bill. Despite its claims that there had been consultation, we found out in evidence that witnesses had not been consulted on detailed provisions. It also blithely states that there will be no impact on equal opportunities, human rights or local government. Before the amendments were made, that was not the case. It may be the case now, as we move towards a more transparent procedure for the appointment and removal of part-time sheriffs, but there may still be problems over the failure to give a right of appeal to part-time sheriffs when they are removed from their posts. The Executive should be careful in its

statements in policy documents.

Jim Wallace's announcement of amendments is generally to be welcomed. He is to be congratulated on recognising the position he got himself into. The regulations are important. The drafts are to come before Parliament after the summer recess. We need to see them. The Sheriffs Association made it plain that the regulations were very important indeed. As we all know, in law, the devil is in the detail.

The points that Fergus Ewing raised about the nature and class of people who become sheriffs should be considered. I am not one for political correctness or for enforcing balance, but we must concern ourselves with the range of people on the bench.

A lot of people seem to have summed up before me, so I am summing up the summings-up. Members have said that there ought to be an appeal mechanism for part-time sheriffs who have been removed from their posts. That point was raised by Winnie Ewing and James Douglas-Hamilton among others. The fact that there is no such mechanism could rightly be challenged under the ECHR by part-time sheriffs who are removed.

Bill Aitken and Kenny MacAskill asked why part-time sheriffs were not put on the same basis as permanent sheriffs. Like them, I do not understand that. The Justice and Home Affairs Committee heard evidence from Jamie Gilmour, who thought that the reason was simply to avoid having to pay them pensions. Why not put part-time sheriffs on the same basis as permanent sheriffs? We are asking for the same quality of justice from them, so I do not see why there should be two classes of sheriff.

There is also a feeling that people who are taken on as part-time sheriffs might feel that they are on probation. They might not feel that they rank the same as a full-time sheriff. That came out in evidence to the Justice and Home Affairs Committee. The problem may have been partly cured by the fact that part-time sheriffs, subject to certain conditions, can now be reappointed after their five-year period is up.

The Law Society of Scotland has been in touch—I think with everybody—with a recommendation that I do not necessarily subscribe to but which the Executive may want to consider. It is recommending that part-time sheriffs sit for an increased minimum of 40 days and a decreased maximum of 80 days. The minimum is higher so that they have sufficient skills to exercise their authority in a judicial capacity; the maximum is lower so that they are not overused and abused by being on the bench for almost as long as full-time sheriffs.

I would also like to raise the issue of the booking

of part-time sheriffs, which I understand is in the power of the Scottish Executive's justice department. It will have to be careful to ensure that part-time sheriffs are used in specific ways—to plug emergency gaps in the system when a sheriff is ill or on holiday or when there is an unusual work load, but not simply to augment the system or to be used as cheap labour, which I think they suspect has been happening.

Fergus Ewing made some good points about the 88 justices with experience in local areas. Particularly—as David Mundell said—in rural areas, local knowledge can be very important to the quality of justice. Also important is that no case has been raised on whether councillor JPs are in breach of the ECHR. Roseanna Cunningham suggested that barring councillor JPs from sitting in their local authority area might be sufficient. She also raised the issue of clerks of the court. When we took evidence, a suggested solution to that possible problem was that their advice should be given to both sides in a case. Bill Aitken raised the issue of the SCA, rather than local authorities, funding district courts. I suspect that that will come up in the review of the district courts.

The SNP accepts that the bill will have little impact on bail. We see no merit in the criteria being incorporated in statute. There was conflicting evidence on victim impact statements at the bail stage—remember, we are dealing with someone who is only accused and is innocent until proven guilty beyond reasonable doubt. It should always be borne in mind that we are talking about alleged victims and the accused.

Victim Support said it wanted to see some kind of victim impact statement, but the Scottish Rape Crisis Network did not because of the risk of a ranking of such statements. Some people—like me—look cool, calm and collected although they are really in a terrible state and others look as if they are in a state but may be less so, so it can be very difficult to measure from someone's behaviour exactly what the impact is on them.

The minister spoke about discussing strategy with the police. Please get a move on with that. What Kenny MacAskill described—people meeting the accused on the street—really happens. That reduces everyone's confidence in the justice system. We must address that.

Subject to what emerges at stage 2, since we have not seen the proposed amendments, the SNP supports the bill.

The Presiding Officer (Sir David Steel): I call Angus MacKay to reply.

Angus MacKay: Six and a half minutes?

The Presiding Officer: In theory you have 10 minutes but it would be helpful if you could

manage it in seven.

17:23

The Deputy Minister for Justice (Angus MacKay): I will try to contain myself.

This has been a useful and constructive debate, if somewhat bizarrely punctuated at the end by Mr Aitken's reference to the Deputy First Minister's chestnuts, which he singularly failed to roast. However, we are grateful that his contribution was given without the benefit of the tee-shirt he wore yesterday evening—he knows what I mean.

I was pleased to see Fergus Ewing taking the opportunity to continue his intifada against the sheriffs. I am sure that should he become a sheriff, he will be welcomed with a particularly unpleasant initiation ceremony by individuals he never tires of attacking. The Labour party will do all it can to assist in his release back into the community at the next election to the Parliament.

I am glad that there appears to be a general recognition on the part of both the Justice and Home Affairs Committee and the Parliament that the proposals in the bill are necessary to bring aspects of our law into line with the ECHR. I would like to express our thanks, once again, to the Justice and Home Affairs Committee and to the Subordinate Legislation Committee for their willingness to consider the bill at short notice.

The Deputy First Minister made it clear in his opening speech that we listened carefully to the criticisms that the committees made of certain aspects of our proposals and that we will lodge amendments at stage 2 in response to those suggestions. They will provide greater security of tenure for part-time sheriffs and for full-time justices and I hope that they will meet the committees' concerns about whether our proposals go far enough to ensure compliance with the convention. I will be happy to explain our thinking in more detail during stage 2 consideration of the bill.

As the minister who, more often than not, has to appear before the Justice and Home Affairs Committee in relation to legislation, I am not unsympathetic to some of the comments about timetabling. While we regret that it was not possible to introduce the bill earlier, I should make it clear that we had to await the outcome of the Court of Session's judgment on temporary sheriffs in the case of Clancy v Caird, which became available only in April. We finalised the bill as soon as possible after that and published it in draft form at the beginning of May, which allowed three weeks for consideration and comment by interested parties before the bill was introduced on 25 May. While I recognise that that was not satisfactory, I am afraid that, on that occasion, it

was unavoidable.

I will now consider some of the more substantive points that have been made during the debate, starting with statutory guidance and the new legal position on bail. As the Deputy First Minister made clear in his opening speech, we considered the options carefully. While I have every respect for Professor Gane's opinion on these matters, like the Sheriffs Association, we decided that legislating now for such guidance as a solution to ECHR incompatibility was neither necessary nor desirable.

I stress that the abolition of bail exclusions does not mean that those who are accused of serious sex or violent offences will have a right to, or even an expectation of, bail. The common law in Scotland contains clear guidelines on the criteria that the courts must apply in deciding whether to grant bail, including considerations of public safety and previous convictions. The courts would not, therefore, release an accused person on bail if he or she presented a serious risk to the safety of the public. Imposing statutory criteria would amount to codifying the common law, yet those criteria would have to be interpreted in the light of convention jurisprudence. I do not see what would be gained by proceeding in that way.

A number of issues were raised about how representative the new, additional sheriffs will be. In particular, Gordon Jackson suggested that we should not appoint retired sheriffs. It was also suggested that we should try to ensure that a wider range of people are represented among sheriffs as a whole. While we will advertise the posts and consider all applications, I do not want to rule out some contribution from experienced sheriffs who have retired early for perfectly legitimate reasons. The Lord President and the sheriffs principal will be consulted before choices are made by the First Minister. In addition, it is important that I stress that we will actively urge applications from individuals who better represent all of Scottish society and who have appropriate experience and abilities. I hope that that will be recognised as an important departure.

On the pay and pensions of part-time sheriffs—I am not sure if you are still able to hear me, Presiding Officer, but I will carry on in any event.

The Presiding Officer: There is a little too much conversation going on. Let us listen to the minister.

Angus MacKay: We do not accept that the case has been made for part-time sheriffs to receive pensions. They can pick and choose when to work and need only work 20 days a year, if they so choose. If we try to impose conditions, we may find that we will not get the quality of sheriffs that we need. However, I assure members that there

will be great interest in these appointments, which will pay £438 a day—I believe that that is rather more than even members of the Parliament enjoy, pro rata. We will pay the same daily rate as is payable to permanent sheriffs.

Jim Wallace gave an undertaking to introduce draft regulations on the procedures for appointing part-time sheriffs as soon as possible after the summer recess. The Justice and Home Affairs Committee accepted that the preparation of regulations should not delay the appointment of the first tranche of part-time sheriffs, which should take place as soon as possible after the bill has been passed.

Given the severe and growing pressures on the sheriff courts, I confirm that we intend to make the first appointments once the bill has obtained royal assent. We hope that that will happen in the autumn. We will introduce regulations for consideration by Parliament when it returns in the autumn.

We are grateful for the general support that there appears to be for the principles of the bill. We will lodge the amendments that we have outlined today at stage 2, when there will be opportunity for further debate. The sole purpose of the bill is to ensure that certain specific aspects of our law are compatible with the ECHR. That is right and proper and the Executive believes that—taking cognisance of the advice of the Justice and Home Affairs Committee, which I am always happy to acknowledge—it has got the balance right.

Bail, Judicial Appointments etc (Scotland) Bill: Financial Resolution

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Bail, Judicial Appointments etc. (Scotland) Bill, agrees to the following expenditure—

(a) payable out of the Scottish Consolidated Fund, of sums required by the Scottish Ministers to pay remuneration and allowances to part-time sheriffs; and

(b) charged on that Fund, of any increase attributable to the Act in expenditure charged on that Fund by any other Act.—[*Angus MacKay.*]

Parliamentary Bureau Motions

Motions moved,

That the Parliament agrees the following designation of Lead Committee—

The Local Government Committee to consider the Environmental Protection (Waste Recycling Payments) (Scotland) Regulations 2000 (SSI 2000/185).

That the Parliament agrees the following designation of Lead Committee—

The Justice and Home Affairs Committee to consider the Census (Scotland) Amendment Regulations 2000 (SSI 2000/194).

That the Parliament agrees that the draft Scotland Act 1998 (Modifications of Schedule 4) Order 2000 be approved.

That the Parliament agrees that the draft Budget (Scotland) Act 2000 (Amendment) Order 2000 be approved.—[*Mr McCabe.*]

Decision Time

17:31

The Presiding Officer (Sir David Steel): There are 12 questions to put to the chamber today.

The first question is, that amendment S1M-1027.1, in the name of Peter Peacock, which seeks to amend motion S1M-1027, in the name of Nicola Sturgeon, on the McCrone report, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 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)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 MacLean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 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)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLeish, Henry (Central Fife) (Lab)
 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)
 Mundell, David (South of Scotland) (Con)
 Munro, Mr John (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (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)
 Thomson, Elaine (Aberdeen North) (Lab)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Ben (North-East Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Campbell, Colin (West of Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Elder, Dorothy-Grace (Glasgow) (SNP)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Ms Margo (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Mr Alex (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 77, Against 33, Abstentions 0.

Amendment agreed to.

The Presiding Officer: The second question is, that amendment S1M-1027, in the name of Nicola

Sturgeon, on the McCrone report, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 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)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 MacLean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 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)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLeish, Henry (Central Fife) (Lab)
 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)
 Mundell, David (South of Scotland) (Con)
 Munro, Mr John (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)

Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Ben (North-East Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

AGAINST

Canavan, Dennis (Falkirk West)
 Hyslop, Fiona (Lothians) (SNP)

ABSTENTIONS

Adam, Brian (North-East Scotland) (SNP)
 Campbell, Colin (West of Scotland) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Elder, Dorothy-Grace (Glasgow) (SNP)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Ms Margo (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Mr Alex (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 74, Against 2, Abstentions 31.

Motion, as amended, agreed to.

Resolved,

That the Parliament welcomes the Executive's approach to establish genuine consultation and partnership through constructive dialogue and mature consideration of the recommendations of the McCrone Report, and calls upon the Executive to maintain its progress towards the objective of securing a modern and flexible mechanism for determining the professional conditions of service for teachers in Scotland's schools as a critical determinant in establishing a world class reputation for the Scottish education system.

The Presiding Officer: The third question is, that amendment S1M-1026.2, in the name of Alasdair Morrison, which seeks to amend motion S1M-1026, in the name of Kenny MacAskill, on petrol and diesel prices, be agreed to. Are we

agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 MacLean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 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)
 Munro, Mr John (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)

Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Campbell, Colin (West of Scotland) (SNP)
Canavan, Dennis (Falkirk West)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Dr Winnie (Highlands and Islands) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Fergusson, Alex (South of Scotland) (Con)
Gallie, Phil (South of Scotland) (Con)
Gibson, Mr Kenneth (Glasgow) (SNP)
Grahame, Christine (South of Scotland) (SNP)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Harding, Mr Keith (Mid Scotland and Fife) (Con)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
MacDonald, Ms Margo (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McLeod, Fiona (West of Scotland) (SNP)
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
Mundell, David (South of Scotland) (Con)
Neil, Alex (Central Scotland) (SNP)
Paterson, Mr Gil (Central Scotland) (SNP)
Quinan, Mr Lloyd (West of Scotland) (SNP)
Robison, Shona (North-East Scotland) (SNP)
Russell, Michael (South of Scotland) (SNP)
Salmond, Mr Alex (Banff and Buchan) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Sturgeon, Nicola (Glasgow) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Tosh, Mr Murray (South of Scotland) (Con)
Ullrich, Kay (West of Scotland) (SNP)
Wallace, Ben (North-East Scotland) (Con)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)
Wilson, Andrew (Central Scotland) (SNP)
Young, John (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 64, Against 45, Abstentions 0.

Amendment agreed to.

The Presiding Officer: As Mr Morrison's amendment was carried, Mr Tosh's amendment falls, so I move to the fifth question.

The question is, that motion S1M-1026, in the name of Kenny MacAskill, on petrol and diesel prices, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Brankin, Rhona (Midlothian) (Lab)

Brown, Robert (Glasgow) (LD)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
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)
McLeish, Henry (Central Fife) (Lab)
McMahon, 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)
Munro, Mr John (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Oldfather, Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Radcliffe, Nora (Gordon) (LD)
Raffan, Mr Keith (Mid Scotland and Fife) (LD)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Scott, Tavish (Shetland) (LD)
Simpson, Dr Richard (Ochil) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North-East Fife) (LD)
Smith, Margaret (Edinburgh West) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
Thomson, Elaine (Aberdeen North) (Lab)
Wallace, Mr Jim (Orkney) (LD)
Watson, Mike (Glasgow Cathcart) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Campbell, Colin (West of Scotland) (SNP)
Canavan, Dennis (Falkirk West)
Crawford, Bruce (Mid Scotland and Fife) (SNP)

Cunningham, Roseanna (Perth) (SNP)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Elder, Dorothy-Grace (Glasgow) (SNP)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (South of Scotland) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Ms Margo (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLeod, Fiona (West of Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Mr Alex (Banff and Buchan) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Mr Murray (South of Scotland) (Con)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Ben (North-East Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)
 Young, John (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 65, Against 45, Abstentions 0.

Motion, as amended, agreed to.

Resolved,

That the Parliament recognises concern about the impact of fuel prices especially in rural, highland and islands areas where public transport alternatives are more difficult to provide; recognises that fuel duty is a reserved matter; welcomes the investigation by the Enterprise and Lifelong Learning Committee into the bulk purchase of fuel for remote areas; welcomes the progress made by the Scottish Executive in implementing a comprehensive integrated transport strategy and investing in public transport projects across Scotland; in particular notes support for rural public transport services and the network for petrol stations in rural Scotland, as well as measures to sustain lifeline air and ferry links, including the Highlands and Islands; and further notes that the current budget for the fuel duty rebate would have no impact on Treasury receipts but would be a cost to the current budget for Scottish public services.

The Presiding Officer: The sixth question is, that motion S1M-975, in the name of Sam Galbraith, on the Care Standards Bill, be agreed to.

Motion agreed to.

That the Parliament endorses the principle of a power to

make an Order in Council to vary the functions of the Central Council for Education and Training in Social Work, a cross-border public authority, as set out in the Care Standards Bill and agrees that the relevant provision to achieve this end in the Bill should be considered by the UK Parliament.

The Presiding Officer: The seventh question is, that motion S1M-984, in the name of Jim Wallace, on the general principles of the Bail, Judicial Appointments etc (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament agrees to the general principles of the Bail, Judicial Appointments etc (Scotland) Bill.

The Presiding Officer: The eighth question is, that motion S1M-1024, in the name of Jack McConnell, on a financial resolution in respect of Bail, Judicial Appointments etc (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Bail, Judicial Appointments etc (Scotland) Bill, agrees to the following expenditure—

(a) payable out of the Scottish Consolidated Fund, of sums required by the Scottish Ministers to pay remuneration and allowances to part-time sheriffs; and

(b) charged on that Fund, of any increase attributable to the Act in expenditure charged on that Fund by any other Act.

The Presiding Officer: The ninth question is, that motion S1M-1031, in the name of Tom McCabe, on the designation of a lead committee, be agreed to.

Motion agreed to.

That the Parliament agrees the following designation of Lead Committee—

The Local Government Committee to consider the Environmental Protection (Waste Recycling Payments) (Scotland) Regulations 2000 (SSI 2000/185).

The Presiding Officer: The 10th question is, that motion S1M-1032, in the name of Tom McCabe, also on the designation of a lead committee, be agreed to.

Motion agreed to.

That the Parliament agrees the following designation of Lead Committee—

The Justice and Home Affairs Committee to consider the Census (Scotland) Amendment Regulations 2000 (SSI 2000/194).

The Presiding Officer: The 11th question is, that motion S1M-1033, in the name of Tom McCabe, seeking approval of the Scotland Act 1998 (Modifications of Schedule 4) Order 2000, be agreed to.

Motion agreed to.

That the Parliament agrees that the draft Scotland Act

1998 (Modifications of Schedule 4) Order 2000 be approved.

The Presiding Officer: The 12th question is, that motion S1M-1034, in the name of Tom McCabe, which seeks approval of the Budget (Scotland) Act 2000 (Amendment) Order 2000, be agreed to.

Motion agreed to.

That the Parliament agrees that the draft Budget (Scotland) Act 2000 (Amendment) Order 2000 be approved.

The Presiding Officer: That concludes decision time and the business for today.

Meeting closed at 17:36.

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