

# **MEETING OF THE PARLIAMENT**

Thursday 15 November 2001  
*(Morning)*

Session 1

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## Scottish Parliament

Thursday 15 November 2001

(Morning)

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

### Anti-Terrorism, Crime and Security Bill

**The Deputy Presiding Officer (Mr George Reid):** Good morning. The first item of business is a debate on motion S1M-2445, in the name of Jim Wallace, on the Anti-Terrorism, Crime and Security Bill, which is UK legislation, and an amendment to that motion.

09:30

**The Deputy Minister for Justice (Iain Gray):** Earlier this week, the Government introduced the Anti-Terrorism, Crime and Security Bill in the House of Commons. The genesis of the bill needs little explanation. The terrorists who struck at New York struck at us all. They killed without discrimination, and those who died were men, women and children of all ages and of many nationalities, races, and religious and political persuasions. It was truly an act of terror.

Tragically, we are not strangers to acts of terrorism. However, 11 September saw the manifestation of a threat of terrorism of a scale, audacity, single-mindedness, global reach and disruptiveness that we have not previously faced. It is therefore right that we respond not only to the actual act, but to the threat of similar outrages. The recent advances that have been made in Afghanistan do not diminish that imperative; indeed, they may arguably increase it.

On this issue, we walk a fine and difficult line. We aspire to tolerance and respect for all and to uphold fundamental civil liberties. However, to do so, we must deal with those who exploit our liberties with threats to life and limb. I do not say that that is easy; however, it is inescapable.

The Executive believes that the Anti-Terrorism, Crime and Security Bill is a proportionate response to the events of 11 September. It is not a wholesale revision of our legal and security framework, but a collection of carefully targeted improvements.

The bill has a number of strands. First, it enhances information disclosure to aid policing and prosecution; it enhances financial controls in much the same way as the Proceeds of Crime Bill;

and it strengthens existing asylum and immigration powers. Secondly, the bill contains new criminal offences on religious hatred, corruption, weapons of mass destruction, associated hoaxes, and failure to disclose information about terrorist offences.

Thirdly, the bill requires enhanced security for the storage of pathogens, civil nuclear installations, and airports, which form the tools and targets of the new terrorism. Fourthly, the bill enhances policing, with new powers on DNA and fingerprint evidence; an extended jurisdiction for British Transport and Ministry of Defence police; and extended access to passenger information. Finally, the bill allows for fast-track implementation of any European Union agreements on justice and home affairs.

I will now deal with the devolved provisions that we recommend be included in the Westminster bill and those that we propose to exclude. That is the purpose of our debate this morning; we are not debating aspects of the bill that are clearly reserved and would, in any circumstances, be a matter for the United Kingdom Parliament. That is why the SNP amendment is not appropriate.

Our rationale for a Sewel motion is essentially pragmatic. We do not think it acceptable to delay these matters until the introduction of the criminal justice bill next year, and we do not think that emergency legislation of our own is appropriate for proposals that are unlikely to differ on either side of the border. It is right to move quickly and, as far as possible, on a common UK front.

We recommend that the enabling power on EU criminal measures be extended to Scotland, which will allow Scottish Ministers to introduce secondary legislation on devolved, criminal, police and judicial co-operation initiatives. That safeguards this Parliament's role and strikes the right balance between parliamentary scrutiny and the ability to legislate quickly when necessary.

We recommend that the bill's provisions on dangerous substances be extended to Scotland, which will make it an offence for a person to use nuclear, biological, chemical, radiological or any other noxious substance, or to threaten to do so.

We recommend that the bill's provisions on disclosure of information be extended to Scotland. The provisions will enable Government departments and other public authorities to disclose information for possible criminal investigations or proceedings. The Parliament has already passed a Sewel motion on this in relation to the Criminal Justice and Police Bill. However, the measures were dropped and are now being reintroduced with some modifications.

We recommend that the new powers relating to the security of premises holding harmful

substances be extended to Scotland. The powers are primarily designed to address security arrangements at laboratories where there are stocks of potentially dangerous substances such as viruses, bacteria and toxins. The substances will be specified in secondary legislation and examples of the new controls are given in the memorandum that accompanies the Sewel motion.

We recommend that the new police powers on passenger information be extended to Scotland, which would enable the police to request information in relation to ships and aircraft arriving anywhere in the UK from any other country. The current powers are limited to travel between the UK mainland, Northern Ireland and the Republic of Ireland.

We recommend that the extension of powers for the MOD and British Transport police be extended to Scotland. That would extend their jurisdiction so that they could assist other police forces on request. Members will recall that the Parliament previously approved this approach for the MOD police, but the proposals were subsequently dropped from the Armed Forces Bill.

We recommend making use of the bill to allow fingerprints and samples that are taken under Terrorism Act 2000 powers to be used in the investigation of the whole range of crime. That will ensure that links can be drawn between terrorist suspects and other criminal acts that might have terrorist connections.

I will now address the aspects of the bill that we do not wish to be extended to Scotland. First, we will pursue a distinctive approach on religious hatred. I shall chair a ministerial working group with cross-party representation and a remit to report by the end of February. The Deputy First Minister has written to invite the Commission for Racial Equality and the Association of Chief Police Officers in Scotland to participate in that group. We intend to invite others to participate and will of course consult widely. Our aim will be to ensure that any new legislation is workable and effective in the Scottish context. In the meantime, we will deal with religious hatred firmly under the current law. Religious aggravation already exists at common law in Scotland.

Furthermore, because of different rules of evidence and procedure in Scotland, we have decided to introduce international corruption provisions in our own criminal justice bill, which will be introduced next year.

Finally, we have decided not to extend to Scotland the new police powers to remove face coverings. The police in Scotland were lukewarm in their support for the proposal and pointed out that there could be practical difficulties, for

example, with some forms of traditional dress. In the circumstances, we believe that the benefits would be marginal. The UK bill will be amended to exclude Scotland from this provision.

We consider the Anti-Terrorism, Crime and Security Bill to be a proportionate and carefully targeted piece of legislation. With the three exceptions that I have mentioned, we commend its extension to Scotland and I therefore invite the chamber's support for this Sewel motion.

I move,

That the Parliament recognises the urgency of enhancing anti-terrorist capability and security in the current international situation and agrees that the provisions of the Anti-Terrorism, Crime and Security Bill specified in the Scottish Executive's memorandum that relate to devolved matters should be considered by the UK Parliament.

09:38

**Roseanna Cunningham (Perth) (SNP):** At the outset, I should thank the Executive for arranging yesterday's briefing by officials on the Sewel motion, which helped to clarify some issues. However, although I am very grateful for those 40 minutes, they led me to question the extent to which the officials themselves had been consulted by Westminster. It was clear that the consultation has lasted only a matter of weeks, not months.

People will argue that this is an emergency. However, that argument would have considerably more force if we were not being presented with Sewel motions almost weekly. Everything cannot be an emergency and, given the number of Sewel motions that come before us, it will soon be difficult to ascertain when we are dealing with a genuine emergency.

All the Sewel motions that we deal with are not emergencies—in fact, they are anything but. The minister referred to the fact that two issues that are included in the memorandum that accompanies the motion have already been the subject of Sewel motions. On those occasions, the Scottish Parliament was asked to allow Westminster to legislate on our behalf on devolved matters, yet Westminster did nothing of the sort. One could argue that if we had gone ahead with appropriate Scottish Parliament legislation earlier this year, instead of having Sewel motions, we would have been ahead of Westminster in the game. However, we are considering the two issues again and it could be argued that parliamentary time was wasted earlier this year to no great purpose. For the record, the SNP abstained on one of the motions and voted against the other—we are therefore consistent in our arguments.

We will vote against today's Sewel motion for two main reasons, both of which are points of

principle. First, there is the question of the continued use of Sewel motions. As I said, the Parliament is repeating itself. It seems that we are beginning to import some of Westminster's redundancies and inefficiencies. The procedure has become a matter of course. A startling development is that, when it comes to amending a Sewel motion, the onus is beginning to be put on those who do not think that such motions should be used, when it should be the other way around.

Let us be clear. The Scotland Act 1998 sets out the constitutional framework within which the Scottish Parliament operates. There is a clear distinction between devolved and reserved matters. For obvious reasons that do not need to be repeated, criminal justice is one of the most clearly defined matters. Westminster's handling of Scottish justice matters over many decades was beginning to cause major concern. Issues were not addressed speedily and simply finding out what the law was could be difficult. It was scattered around in bits of legislation that had Scottish clauses tacked on, or was contained in the now infamous law reform (miscellaneous provisions) (Scotland) acts that became too many to mention and were distinguishable only by the year in which they were passed. That was meant to stop. I regret that we are fast heading back to such a situation.

According to the Labour party, Donald Dewar could say or do nothing wrong. He said of devolved areas:

"there is a possibility ... of the United Kingdom Parliament legislating across those areas, but it is not one which we anticipate or expect."—[*Official Report, House of Commons*, 28 January 1998; Vol 305, c 402-3.]

What was unanticipated and unexpected has turned into the 25<sup>th</sup> Sewel motion and the fifth that deals with law and order—the quintessential devolved area. When the Anti-Terrorism, Crime and Security Bill goes into standing committee at Westminster, we will be lucky if one Scottish MP is on the committee and lucky if that MP knows about Scots law. So much for scrutiny. There will be precious little of that, although it has always been a professed virtue of the Scottish Parliament's procedures.

The motion deals with fundamental matters of criminal procedure, which should themselves undergo the utmost scrutiny. For example, the Scottish Parliament should decide whether specific offences are required in respect of hoaxes or whether existing common-law offences in Scotland are sufficient.

I have focused on the general concept of Sewel motions. A number of measures may require to be introduced in the light of the current international situation; I do not argue with that. However, the Scottish Parliament is perfectly competent to deal

with all the matters in the memorandum and to debate them in the detail that might be necessary and with the scrutiny that is absolutely necessary.

Another aspect of the Anti-Terrorism, Crime and Security Bill is the rather vexed question of the extension of detention without trial. There is some irony in the Sewel motion being in the name of the Minister for Justice, who is not in the chamber. I suppose that he might be rather embarrassed to have had to attach his name to the motion.

On Monday, when the bill was introduced, Simon Hughes MP said in a Liberal Democrat press release:

"Everybody must have the right to have their detention reviewed by the courts. Government plans to deviate from the European Human Rights Convention and to detain people for as many as five years goes far too far."

I agree. That a coach and horses is being driven through Scottish procedures is bad enough, but the procedures seem to be being torn up wholesale. That it is proposed to do so without reference to this Parliament is even worse. That it is expected that that can be done without so much as a cheep from this Parliament is the crowning insult.

The Blunkett proposals have, not unreasonably, been described as a return to internment. Leaving aside the dubious historical experience of internment, I will just say that the detention will, in effect, be enforced by certification by the Home Secretary.

Another politician said:

"The Prevention of Terrorism Act ... allows an extension of detention not by the judiciary but by the Executive.

It must be accepted, as it was accepted when the power was introduced, that prima facie the power is offensive to the basic principle of the rule of law, which is that deprivation of liberty should be through the courts and not through politicians."—[*Official Report, House of Commons*, 10 March 1993; Vol 220, col 972.]

I could not have put it better myself, which is strange, given that I do not normally agree with Tony Blair, who said that when he was in Opposition.

I do not argue that certain measures may not be necessary in the current circumstances. However, there is no practical reason why we should not legislate where that is necessary. Some proposals in the bill extend to all criminal investigations, not just to terrorist-related offences. We have procedures in this Parliament that would expedite matters. It is right that this Parliament has the opportunity to make its position clear on the single most controversial aspect of the bill. For those reasons, I ask members to support the SNP amendment.

I move amendment S1M-2445.1, to leave out from “and agrees” to end and insert:

“calls on the Scottish Executive to bring forward legislation dealing with the relevant devolved matters, if necessary under the Parliament’s emergency bill procedures, in order that there can be proper consultation with the relevant authorities, companies, agencies and organisations in Scotland, and furthermore notes with concern the new proposals in regard to detention without trial in clauses 21 to 32 of the Anti-Terrorism, Crime and Security Bill which are a suspension of the normal Scottish criminal justice procedures and which would breach the European Convention on Human Rights.”

09:46

**Lord James Douglas-Hamilton (Lothians) (Con):** In general, I welcome the anti-terrorism measures, which deal with a range of domestic security issues, and thank the minister for the briefing on the bill’s details, which I received from officials. However, we believe that there may be a need for sunset clauses to expire after 12 months, rather than the period that is specified in the bill.

We support the Sewel motion and want to be constructive and supportive wherever possible, but we have reservations about certain clauses in the Anti-Terrorism, Crime and Security Bill. We have specific concerns about three major areas of the bill, which our colleagues in the House of Commons will no doubt raise.

First, we will oppose in their present form the clauses on incitement to religious hatred and will support other measures to protect vulnerable faith communities. Our objection is based on the fear that the bill has serious implications for freedom of speech, which we seek to uphold. I am reassured by the minister’s comments that that issue will be dealt with in the Scottish Parliament.

I am extremely concerned by the real threats and attacks on the Muslim community. On Monday night, I was present at the reopening of the Edinburgh mosque that had been the subject of a criminal attack. The reopening was a triumph in the face of adversity. We will strongly support the section on religiously aggravated offences and other measures to protect vulnerable communities.

Secondly, the Home Secretary should be able to take steps to remove dangerous foreign nationals from the country rather than have to use indefinite detention powers. The Government has used the excuse that to deport such suspects contravenes article 3 of the European convention on human rights. However, France has entered a reservation against article 3 and can deport foreign nationals who are a threat to national security. If France can act in the best interests of its security, we can, and should, do so too.

Thirdly, we will oppose the measures to implement EU third-pillar decisions—those relating

to justice and home affairs and foreign affairs—by statutory instrument. To allow such decisions to be implemented through secondary legislation would restrict Westminster’s power to scrutinise legislation fully and remove its power to amend it readily. Of course, if decisions are made between police forces for joint investigation of terrorist plans or conspiracies to commit crimes, we would support EU third-pillar action if it is specifically aimed at preventing terrorism.

Members may be aware of a recent article in *Scotland on Sunday* that recounted the tale of a young Scot of Muslim origin. In the article, which alleged that the man was a member of the Al-Muhajiroun organisation, he said that it

“would not bother me in the least”

to shoot a British soldier. I am a former Territorial Army soldier of 10 years’ service, and it seemed that those remarks constituted very bad manners

After all, the British armed services exist to protect the people of this country, and literally hundreds of Muslims and British people were murdered in the unprovoked attack on the World Trade Center. There can be a narrow line between freedom of speech and incitement to commit a crime. I recall that a friend of mine once prosecuted an American for threatening to assassinate the President, because the American had said that, if he was called up to serve in Vietnam, the first person he wanted in the sights of his rifle was Lyndon Baines Johnson, who was President at the time. That case went all the way to the Supreme Court of the United States, which decided by five rulings to four that the American had been exercising his right to free speech—however, it was a close-run thing.

As the matter has given rise to some public concern in Scotland, I commend the wise words of Councillor Bashir Maan, a Glasgow Labour councillor and Scottish secretary of the Muslim Council of Britain. He spoke in an enlightened way with foresight and vision, saying:

“I have consulted the theologians, I have spoken to the Imams, and they have assured me that the teachings of the Koran are clear—you must not take up arms against a country you have accepted as your home. Here in Scotland we have the freedom of speech and freedom to practise our religion which we can use to voice our concerns. You can demonstrate, you can express your fears, but you cannot do that by taking up arms against the country to whom you owe allegiance.”

In saying that, Bashir Maan was not only speaking for his community, but speaking to Scotland.

We will support the Sewel motion today.

09:52

**Robert Brown (Glasgow) (LD):** One of the advantages of belonging to a governing party is



that one is briefed by the Minister for Justice rather than by officials on these occasions. I thank Jim Wallace for his briefing and I imagine that, in his capacity as acting First Minister, he is involved this morning in carrying out the affairs of the country.

The Sewel motion comes before the Scottish Parliament in the aftermath of the 11 September atrocities and in pursuit of the war against terrorism, and it is quite understandable that the Government should seek to strengthen measures that will aid the prevention and detection of terrorist crimes. Ensuring the security of the citizen is the first duty of the state, but it is seldom a good idea to pass laws in haste or in times of raised passions. Not infrequently, the result can be bad, ineffective, unworkable and unjust law.

My colleague Simon Hughes, to whom Roseanna Cunningham referred earlier, described the Anti-Terrorism, Crime and Security Bill as

“a mixture of the welcome, the reasonable, the worrying and the completely unacceptable.”

As Roseanna Cunningham said, the bill proposes detention without trial—internment—based on a certificate from the Home Secretary. The courts are to have no powers to review the matter, but there will be an appeal to a body called the special immigration appeals commission—a sinister-sounding title if ever there was one. If I understand it correctly, the appeal would be not against the detention as such, but against the finding that the detainee was a suspected terrorist. Quite what purpose such an appeal would serve is unclear, as a certificate from the Home Secretary is conclusive on most of the key matters.

**Iain Gray:** Does Mr Brown acknowledge that, although the use of the word “detention” is correct, the bill proposes a detention that can be ended at any time by the decision of the person involved to leave the country? The detention is intended to avoid the necessity of deporting someone to a country where they might be tortured or executed. That puts a slightly different gloss on the arguments that are being presented, although I do not deny that there are arguments to be made.

**Robert Brown:** I accept the minister’s point; however, the front page of the bill carries a bold declaration from Mr Blunkett, certifying that the provisions of the Anti-Terrorism, Crime and Security Bill are compatible with the European convention on human rights. I am troubled as to how a measure that expressly abandons the protections that are given by the ECHR can be certified as being compatible with it.

**Fiona Hyslop (Lothians) (SNP):** I, too, noticed that point. The bill can be interpreted as compatible if a derogation to remove parts of the ECHR takes place, which has happened in the past few days. Is not that, in itself, worrying?

**Robert Brown:** I agree with Fiona Hyslop. That is the point that I was trying to make.

The detention power is the “unacceptable” part of the bill, to use one of Simon Hughes’s words. I will pass over the power to seize the money of someone whom David Blunkett regards as a terrorist. What concerns me is the broad and ill-defined nature of some of the proposals. For example, a sentence of five years in prison is proposed for someone who fails immediately to disclose information that might be of material assistance in preventing an act of terrorism or in arresting someone who commits, prepares or instigates an act of terrorism. Lawyers know that they have to be careful with the word “instigate”, as it has rather wide connotations, particularly in this context.

The principle is that these laws protect our democratic society. There are no major arguments—not even Roseanna Cunningham came up with one—about the measures in the Sewel motion on which this Parliament requires to authorise Westminster to legislate. They are largely criminal investigative measures of a sensible kind and provisions for better national and international co-ordination. Jim Wallace’s decision to exclude from the motion the power for the police to remove face coverings is right, as the basis for that power was unclear and the measure seemed designed to cause offence for no particular gain.

**Iain Gray:** Will the member give way?

**Alasdair Morgan (Galloway and Upper Nithsdale) (SNP):** Will the member give way?

**Robert Brown:** I have given way a lot already.

The general point is that the tradition of freedom under the law runs deep in this country. It is the key strength of a liberal democracy and means that we have no arbitrary arrests, no detention without trial and no punishment without due process of law. Nothing could be more fundamental. We have always defended those rights, except during the world wars and the unfortunate experience of internment in Ulster.

In the first world war, the hysteria of war led to the internment of innocent aliens of German, Austrian or central European origin and the execution of shell-shocked soldiers after a perfunctory court-martial procedure. The second world war saw the ridiculous spectacle of the internment of enemy aliens, some of whom were living in exile here as refugees from foreign Nazi or fascist regimes. In America—this is particularly pertinent to our debate today—Americans whose families had been in the country for generations but who looked vaguely eastern or Asian were interned in the wake of the attack on Pearl Harbour.

We are prepared to support the Sewel motion because it makes sense in terms of the devolution settlement. We are not happy with the time scales and believe that the matter would bear close examination by one of our justice committees. Whatever the nit-pickers in the SNP might say, this is not a matter of major constitutional importance. However, there is cause to examine whether the Sewel motion procedure might be improved to allow a tempered and studied response by the Parliament through its committees when Westminster makes proposals that overlap our jurisdiction.

Our approval of the motion should not be regarded as approval of the Anti-Terrorism, Crime and Security Bill. This Parliament guards jealously its human rights, which are built into its constitution and soul. We do not support measures that take away those rights or tear up sections of the ECHR as if they were of no account. We should not do so, even given the heightened mental state of the country.

We support the motion but have reservations about what is happening at Westminster as regards the major aspects of the bill.

09:58

**Gordon Jackson (Glasgow Govan) (Lab):** I am one of those people who do not like the over-use of Sewel motions. I agree with Roseanna Cunningham that we have a distinctive system and that, as a general rule, matters that are devolved should be decided here. However, there are a number of important points in relation to this motion.

Many of the issues that we are dealing with are a response to the catastrophic events of recent weeks. That means that things will happen at a quicker pace than they otherwise would. I always like Robert Brown's speeches, but some of what he said today was irresponsible. To compare the sort of issues that we have been dealing with in the past month or two to internment during the first world war is to make an improper comparison. We are living in dangerous times and certain things need to be dealt with quickly.

I do not like the fact that we seem to be dealing with a lot of matters that are reserved.

**Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Is the member saying that the provisions of the bill do not involve internment without trial?

**Gordon Jackson:** No. A lot of matters in the bill are reserved issues and that is one of them. Detention is controversial. It is open to legitimate debate—certainly to debate on whether it should be renewed annually. That is not a matter for the

Sewel motion.

A Sewel motion is about which devolved matters should be dealt with at Westminster. I do not much like a debate on such a motion being used as a device to reverse the situation and becoming a debate on issues that belong elsewhere. I do not like the idea of a Sewel motion becoming a device to revisit the devolution settlement. Michael Russell shakes his head at that, but that is what happens. Reserved matters are legitimate topics for debate, but are not to do with what the Sewel motion does.

**Stewart Stevenson (Banff and Buchan) (SNP):** Will Gordon Jackson give way?

**Gordon Jackson:** In a moment.

Most of the matters that we are asking Westminster to deal with are good legislation. I take Robert Brown's point on that. Roseanna Cunningham could come up with almost nothing that she did not like about the legislation covered by the Sewel motion.

**Roseanna Cunningham:** Yes I could.

**Gordon Jackson:** She says that she could, but the best that she came up with was the matter of hoaxes. If people make hoax calls and frighten others about the dangers of terrorism or biological warfare, that is a serious matter. I am happy for us to deal with it quickly by the method proposed.

A balance must be struck—

My voice has gone this morning; my throat is bad.

**Stewart Stevenson:** Will Gordon Jackson give way?

**Gordon Jackson:** Yes please.

**Stewart Stevenson:** Does Mr Jackson accept that, as long as the Parliament refuses to speak up on and take control of the big issues, we will continue to see trivia about the personal lives of politicians on the front pages of our papers instead of the issues that matter to the people of Scotland?

**Gordon Jackson:** That question moves us into the surreal. I do not accept for one moment that the Parliament deals with trivia and I do not suggest that we should not deal with big matters. A Sewel motion should not be a device to consider issues that are not part of the debate.

My time is almost gone. The most important point is that we are not dealing with certain issues under the Sewel motion. The Executive recognises that it is appropriate to deal with those issues here, rather than to put them through the Westminster system. The bill contains provisions that recognise that. For example, we are not

applying the provisions on bribery and corruption in part 12 for the good reason that those provisions involve evidential procedure issues that have a peculiar Scottish dimension. Perhaps more important is the fact that the race and religion provisions in part 5 will be dealt with here, not because the provisions in the Westminster bill are bad—unlike Lord James Douglas-Hamilton, I do not think that—but because there is a particular Scottish dimension to those matters, culturally and legally. We will tackle those matters here, take into account all the interests in Scotland, consult widely and deal with the issues as we think best.

That shows the balance. Where it is appropriate to put provisions through the Westminster system in a Sewel motion, we will do so for good, responsible reasons. Where there are matters that we should deal with here, we will do so. The motion and the proposals in the bill strike that balance. Although I agree with Roseanna Cunningham that we need to be careful with Sewel motions, we have the balance right in this instance. We should agree to the motion.

10:04

**Michael Russell (South of Scotland) (SNP):** A simple statistic says it all. If we pass the Sewel motion today—I hope that we do not—the Parliament will have passed 25 Sewel motions. We have only passed 23 items of legislation. Sewel motions are now not the exception, they are the norm. We ask others to legislate more often than we legislate ourselves. Those are the simple facts of the matter. That alone should make us pause to decide what to do today.

I agree with Gordon Jackson—this is the only point on which I will agree with him—that Sewel motions are a possible and legitimate tool, on occasion and in specific circumstances. In the early days of the Parliament, the Sewel motions that we discussed were agreed among the parties because they dealt with small matters of legislation in a larger United Kingdom bill. That was true of the Financial Services and Markets Bill, the Limited Liability Partnerships Bill, small changes under the Representation of the People Bill and the small details of the Insolvency Bill.

However, what we are asked to do in passing this motion is different. We are asked to approve a major item of legislation with enormous impact on Scotland on the basis of an hour-and-a-half's debate and a vote at 5 o'clock.

**Robert Brown** *rose—*

**Michael Russell:** Allow me to develop my argument, please.

To pass such legislation in such a way is the wrong thing to do for three clear reasons. The first

is not to do with the Parliament, but to do with the country. Scotland, as the minister said, is not immune from a terrorist threat. It is absolutely right that the Government of Scotland engage the people of Scotland in debating the appropriate response to the present international situation. That is happening in every country in the western world and beyond. As members know, Lord James Douglas-Hamilton and I were in Canada last week. There, a major piece of legislation on terrorism is working its way not just through the federal Parliament, but through the provincial Parliaments. That is the way in which the Canadians are deciding on their response to the world in which we now live. This Parliament is being denied the right to do so by the Scottish Executive. The Executive is denying Scotland the right to do so. When the Scottish Government is asked how it is going to respond and how Scotland is going to respond, its answer is incredible. Its answer is "Somebody else will do it for us".

**Robert Brown** *rose—*

**Michael Russell:** I will let Mr Brown intervene in a moment.

We cut out the possibility of engaging Scotland in the debate and getting the whole-hearted support of the people for measures that may be necessary to defeat worldwide terrorism. I can understand that the Labour party may be more concerned with internal matters than with the governance of Scotland, but surely the obligation on that party is to lead Scotland, not to abrogate its responsibility.

**Robert Brown:** Does Mr Russell accept that he is once again raising the constitutional issue in a debate on a Sewel motion? Does he accept the constitutional settlement for the purposes of the bill? Is he suggesting that particular measures in the bill are significant policy matters within the powers of the Scottish Parliament that should be dealt with here, rather than accepting the considered view of the justice department and the Executive on the matters that they have said should be sorted out in this way?

**Michael Russell:** I have just made that point. The most important issue—I will repeat it in simple terms for Mr Brown—is to engage Scotland in the debate, not to cut Scotland out of it. In that way, we will get the full assent of the people of Scotland to the measures that may be necessary.

**Nora Radcliffe (Gordon) (LD)** *rose—*

**Michael Russell:** I am sorry, I will not give way. I must make progress.

A second, strong issue arises. There will and must be appropriate developments in Scottish institutions to take account of the changing world. The Sewel motion does not allow those institutions

to change. It freezes the debate. It says that such decisions are always made elsewhere, as in Gordon Jackson's remarkable contribution. Such decisions are not always made elsewhere.

An obligation is on us to consider the best response for Scottish institutions and allow them to change and develop. That is being denied in the debate, which is entirely wrong. We will be left with a set of devolved institutions that have not responded and that Scottish democratic politicians have not been able to help to develop.

There is a third, even stronger, reason to be worried about the Sewel motion. If we pass it, we will assent to certain measures that are anti-democratic. We are a small European country. We value liberty greatly. We have assented to the European provisions on civil liberties. By passing the Sewel motion, we will be saying that we no longer care about those provisions. I regard it as astonishing that the Liberal Democrats, who have a strong track record in such matters and are saying in Westminster what I am saying, should say it in this Parliament, but that their votes should not follow their voice.

**Iain Smith (North-East Fife) (LD)** *rose—*

**Michael Russell:** I am sorry. I will not give way to Mr Smith.

What happens, as usual, is that the Liberal Democrats say, "We have some objections, but we're not going to do anything about them."

There are three strong reasons to be worried about what is happening in the Parliament today. There are three strong reasons why we should pause before we agree the motion. For me and for the SNP, there are three strong reasons why we should oppose the motion.

10:09

**Phil Gallie (South of Scotland) (Con):** It is sad that we have to have the debate at all. We should all think about the circumstances that lie behind it. On that basis, Gordon Jackson's comments, which reminded us of the reasons why we are debating these issues, are important.

It is also sad that SNP members seem to be using the constitutional argument again. I acknowledge their feelings about Sewel motions, but the SNP has to acknowledge that, on occasion, there is a need to legislate on a UK-wide basis. We see regularly in the chamber that SNP members cannot get into their heads the fact that we are still part of the United Kingdom.

**Michael Russell:** I accepted the fact that there are occasions on which we need to legislate on a UK-wide basis. Does the member believe that there are more occasions on which we should do

that than occasions on which we should legislate ourselves? The figures that I gave showed that there are more occasions on which we allow other people to legislate than occasions on which we legislate ourselves. If he agrees with that position, why did he bother to get elected?

**Phil Gallie:** The member has already acknowledged the amount of legislation that has gone through the Parliament. Legislation is not pushed through on a whim after deciding on a title; a lot of thought and detail lies behind each piece of legislation.

The fact is that there are 72 Scottish members at Westminster who consider issues that affect Scotland. They will have a major role to play when the bill comes before the UK Parliament.

I take up Roseanna Cunningham's comments. She suggested that we would be lucky to get one Scottish member on the committee that considers the bill. I expect more than luck to be involved; I expect there to be Scottish members on that committee. I expect the Scottish Executive to use its influence to ensure that that happens.

I turn to the wider issues in the bill. A number of ECHR issues come to mind. A constriction is placed on the Scottish Parliament. Under the Scotland Act 1998, as I understand it, it is not permissible to debate in the Parliament a number of the issues in the bill because they would contravene the ECHR. That is not the case in the UK Parliament, which allows its members to consider the issues on a wider basis.

I was pleased to hear the minister comment that the religious aspects of the bill will be dealt with in the Scottish Parliament. I believe that we could make grave mistakes if we were to take the line that David Blunkett is considering. We have only to consider the complications of our laws, the difficulties that the police have in bringing charges and the difficulties that we have in finding time in courts for serious offences to recognise that we must debate thoroughly that issue in the Parliament when the time comes.

I said that it was sad that we had to have this debate. There is, however, always a silver lining. I believe that we can take advantage of the legislation to freeze assets. We have all expressed concerns for a long time in the Parliament about the way in which drug dealers and other serious criminals accrue massive wealth, but seem to go untouched. It is my recollection that one of the Sewel bills that we passed would allow the UK Parliament to legislate in the area of freezing assets on a UK basis. Perhaps the bill will give more impetus to the freezing of assets not only in terrorism, but in drug dealing and serious crime.

I say to the minister that there are advantages and disadvantages to deportation. There could be

advantages to rejecting and turning back individuals who are likely to cause massive disruption and problems in our country in the long term. At the same time, there is another element. As I understand it, one of the objectives of the war in Afghanistan—a war in which Scottish soldiers and airmen are involved—is to put countries in a position in which they are obliged to surrender to other legal systems individuals who have erred on the terrorism trail. If we were to take up an automatic deportation stance in every instance, somewhere along the line we could lose out on the opportunity to keep a known terrorist in a place in which we could identify him as being so and have him available for extradition.

Finally, I have a hypothetical question for the minister that is perhaps relevant to the ECHR. What would happen if we had bin Laden in Scotland today and the Americans applied for his extradition? Would Scottish law allow us to extradite bin Laden to America?

10:15

**Mr Kenny MacAskill (Lothians) (SNP):** Nobody disputes that what happened on 11 September was an abomination, that the world has changed irrevocably—as numerous people have said—and that some legislative changes will be required. However, two matters must be addressed. First, how do we bring those changes into Scotland? Secondly, how do we ensure that the legislation that is brought in reflects our distinctive culture, nature, geography, demography—and whatever else? Things are distinct and different here. The one-cap-fits-all solution for the United Kingdom does not go well here. One just has to look at the use of statistics for the Terrorism Act 2000 to see that what is necessary for the greater London area does not reflect, and is not required for, the situation here.

We must make two points. The first is about the use of the Sewel motion, the second is on the question of detention. On the Sewel motion, there should be a presumption that wherever the Parliament is competent or capable we should address matters and legislate here. That should be taken as read, not simply because the matter of the Sewel motion is within our competency and capability, but because it impinges on and affects other bodies and institutions. We are competent in this matter and capable of acting on it. Failure to do so will impinge on our distinctive legal system and police forces, which will be fundamentally affected by what is happening in Parliament on this matter.

It is not just a matter of saying that we have competent and capable people within the chamber—there are many, whatever the tabloid press might think. We also have competent and

capable people within our legislative and police networks. Just yesterday we appointed a new Lord President and a new Lord Justice Clerk. Lord Cullen, the Lord President, is highly thought of, not only within Scotland but throughout the UK. After all, not only did he do the Piper Alpha report, he was also taken down to do the report on the Ladbroke Grove rail disaster and he has done an array of other matters. For a panoply of matters the cry was, “Get in Lord Cullen. He is the best man that there is.”

Yet what are we saying here? We apparently do not have the knowledge to consider the terrorism matter distinctly and individually. We will just take on a plate what comes from down south. Not only does that impinge upon Parliament’s ability and capability, it also fundamentally impinges on the ability and capability of others in other institutions that are equally important and valid in our society.

It also fundamentally affects our legal system, because our ancient and modern law has taken the view that detention without trial must be considered extremely seriously and avoided at all costs. I am always amazed—as are others in the chamber—by the limited knowledge that Scots have of their legislative system. Those such as Gordon Jackson and Lord James Douglas-Hamilton will have had jury trials where people did not know that we have 15 jurors and that we do not have opening speeches. That is understandable, because the mass media is geared towards a system that reflects what happens south of the border or in the United States. People know more about those legislative systems, irrespective of “Taggart” or “Rebus”. However, when we as a Parliament take this stuff just willy-nilly, it is no wonder that individuals in Scotland do not know about their distinctive legal system. All that we get fed by those in power is, in fact, a system from elsewhere. If we want to make sure that people know—

**Gordon Jackson:** Will the member give way?

**Mr MacAskill:** Yes.

**Gordon Jackson:** I have listened to what Kenny MacAskill has said in his great defence of the Scottish legal system, but can he tell us—leaving detention aside—what proposals in the Sewel motion he regards as destroying in some way our distinctive legal system?

**Mr MacAskill:** We cannot ignore the matter of detention—that is fundamental. The whole ethos of detention refers to such matters as Magna Carta. The fact is that, in terms of our legal system, the 110-day rule is sacrosanct, as Gordon Jackson knows. That rule has been applied for centuries and generations because the view has been that people should not be detained eternally without trial. That is why the 110-day rule is a

cardinal aspect of our legal system. This motion is ripping that up and throwing it away. We cannot accept that. We have now, in our modern age and after great debate—whatever Phil Gallie and others might have thought—invoked the ECHR because we viewed that as a fundamental tenet of where we Scots see Scotland in the new millennium and in the 21<sup>st</sup> century. We brought in those individual rights to add to and bolster our legal system. By introducing detention without trial through today's motion, we are ignoring that. Detention without trial is anathema. We are a western, northern-European democracy, so let us consider which other ECHR countries are bringing in such measures. Is detention without trial being invoked in Sweden or Finland? Is the Republic of Ireland introducing it? That country has problems with terrorism equal to ours, but it is not rushing to introduce these measures, because it is considering matters.

Who in Scotland would we be dealing with through the imposition of detention without trial if they cannot be deported or extradited and dealt with by an international criminal court, and if they cannot be found guilty of a criminal offence in this country? Imposing detention means passing a Sewel motion, which undermines the jurisdiction not just of the Parliament, but of our legal system. Detention is fundamentally wrong, not just in Scotland and in the context of Scotland's legal history, but in any modern democracy.

10:21

**Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** I am convinced that, if we are to have effective anti-terrorist legislation, it is important, even essential, for that to be dealt with on a UK-wide basis. That is right and proper in the case of most of the issues concerning devolved matters, such as how to implement European justice and home affairs council measures on the new powers relating to the security of premises holding harmful substances and on police powers to access information about passengers.

As Gordon Jackson and others have said, we have not heard from the SNP to which detailed points of the Sewel motion its members really object and think should not be dealt with by the Westminster Parliament. It is right that most of the devolved matters concerning the effects of the anti-terrorism legislation should be dealt with at Westminster, but some of the provisions in the Anti-Terrorism, Crime and Security Bill would not suit that approach, because Scotland's circumstances are different to those that obtain south of the border.

In particular, the religious hatred provisions of the bill are not appropriate here. That is why Jim Wallace, the Minister for Justice, has decided that

we will not use the Sewel motion for the measures that are proposed in that area. Why are those measures not appropriate? Because they do not work. Such legislation is in place in Northern Ireland, but it does not work and people are not prosecuted under it. It is completely ineffective, and simply pays lip service.

My colleague Donald Gorrie has introduced a draft bill to the effect that, if someone uses religious intolerance in aggravating an offence, it should be treated appropriately. That is the most appropriate approach, not the creation of new criminal offences for which nobody is prosecuted; that is a ridiculous approach. I am delighted that Jim Wallace has decided not to take us down that most ineffective of routes. We need to tackle religious hatred through the route offered by Donald Gorrie—through the aggravation of offences. I would appeal to the Minister for Justice to consider adopting Donald Gorrie's bill and progressing it.

I turn to Roseanna Cunningham's comments. She, quite rightly, referred to my Westminster colleague Simon Hughes MP. There are real objections to the subject matter of the UK bill, namely:

"There is not an expiry date for the majority of emergency powers in the bill. This is unacceptable".

The emergency powers in Northern Ireland have to be renewed every year. Furthermore,

"emergency powers restricting liberties"

could only be supported by parliamentarians

"if they have strict time limits and are in place for the shortest possible time."

I was quoting my colleague Simon Hughes.

Robert Brown highlighted the authoritarian nature of some aspects of the bill being considered at Westminster, such as the removal of ECHR provisions. We have discussed internment without trial. In fact, we are to have internment, by a politician, without trial. I have to take issue with Gordon Jackson: I found his comment on this point rather bizarre. The idea that somebody here who cannot be extradited because they face torture or death might simply decide to leave of their own volition, and that that is quite all right, is a bizarre approach.

**Gordon Jackson:** That was the minister's point, not mine.

**Mr Rumbles:** I stand corrected. Gordon Jackson's comments were not bizarre; the minister's comments were bizarre. I am glad that Gordon corrected me on that point, and I apologise to him. It is quite correct that, if blame is to be apportioned, it should be apportioned properly.

The Liberal Democrats support the way in which we are tackling the issue. Most of the measures are reserved and are, quite rightly, being dealt with by the Westminster Parliament. There are many devolved provisions that should be dealt with by the Sewel motion, and there are two or three that will not be covered through the Sewel device. We will debate those fully in the Parliament, so that we can have Scottish solutions to Scottish problems.

10:25

**Fiona Hyslop (Lothians) (SNP):** We were all shocked by the events of 11 September. It is right and proper and responsible that the nations that make up this state take action to protect themselves and their citizens and contribute to international anti-terrorism efforts. The prevention of terrorism, as an aim, is undoubtedly a good thing. However, it does not automatically follow that any legislation on the prevention of terrorism will automatically and undoubtedly be a good thing. It needs to be tested and challenged and, after two months of preparation, to have only a day or two of consideration on the Scottish areas affected is not acceptable.

We have two areas of doubt with regard to the proposed legislation. We have doubts about how we deal with the devolved aspects of Scots law, and we have doubts about the internment proposals in the UK bill. We have serious concerns on a point of fundamental principle regarding the right to trial and the effectiveness of detention without trial. We have serious concerns about the effect of that on the Scottish criminal justice system.

Furthermore, I am concerned about the human rights aspects. Other members have dealt with and will deal with that matter, but I ask members to reflect on what other nations, for example the United States, are doing. The new anti-terror laws being adopted there allow foreigners awaiting deportation or charge to be detained for only seven days. That is different from what is being proposed in the Anti-Terrorism, Crime and Security Bill, and we should reflect on that.

I will turn to the legislative aspect. Gordon Jackson and Mike Rumbles, for example, have asked what parts of the Sewel motion we are opposed to. I will make it quite clear. It would not matter if SNP members were to support all aspects of the areas that the Executive wants to give over to Westminster—that is not the subject of the debate. The debate is about whether we should consider those aspects in this chamber or allow them to be considered down at Westminster. If some members do not understand that, no wonder 25 Sewel motions have been passed unopposed by the Parliament.

**Iain Gray:** Fiona Hyslop makes an absolutely correct point: that is exactly the purpose of the debate. The question that members have been asking is why, therefore, so much of SNP members' time has been devoted to discussion of a matter that is manifestly reserved and manifestly not the subject of today's debate.

**Fiona Hyslop:** Exactly. The motion before us is printed on page 23 of the first version of today's business bulletin. It is interesting that the Executive recognised overnight that, had it left the motion as it was, without reference to the Executive memorandum, it would itself be allowing and instructing the UK Parliament to cover aspects relating to all devolved matters.

How is detention without trial practised? Does it not involve the Scottish police forces? Does it not involve the Scottish criminal justice system? Of course it affects devolved matters. If ministers themselves suddenly recognised, only the night before, that they had to reduce the scope of their motion, they are recognising the danger that the Government is turning Sewel motions into a pick-'n'-mix. Ministers have chosen the bits that they want—and I am pleased that they have taken responsibility for crimes of racial hatred—but that is still a pick-'n'-mix. They cannot treat Scottish legislation and the Parliament in that way.

We must ensure that we have responsibility. We have been consistent in our arguments. We opposed a Sewel motion sometime last year when we were considering a question relating to the military police. Either we take responsibility for our actions seriously, or we do not. This is a very serious matter.

I would challenge the Conservatives: if they consider the list of provisions that they would want to oppose at Westminster, they will find that those cover the areas covered by the Executive memorandum. Would it not be better if the Parliament's justice committees had more time for consideration of such matters? The Scottish Conservatives should remember that they have only one MP. Are they seriously saying that they can better defend Scots law with one Tory MP at Westminster than the justice committees and the whole Scottish Parliament?

We must guard our Scottish justice system jealously and we must guard our citizens from attack. The two things are not mutually exclusive. The Scottish Parliament can and should deal with issues for which it is responsible under the Scotland Act 1998. I fail to be convinced that we should not take up those responsibilities. I am not convinced by the arguments that the Scottish Executive has made in the chamber, because we can and should deal with these issues.

10:30

**Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab):** Like many members—including, perhaps, even Roseanna Cunningham—I had hoped that John Sewel would participate in the proceedings of this Parliament as a member. I agree that we should be careful in handling the parameters of the devolution settlement and when scrutinising business such as today's.

We have heard Mike Russell's arithmetic, but we do not measure legislation by arithmetic. The Parliament can make judgments on Sewel motions, and I urge members to make a judgment on this one. When making such judgments, we must be mindful of the circumstances in our country. This is not a question of being ahead of the game or of giving way to Westminster. The imperative of finding terrorists and preventing their attacks requires energetic use of all the legal authorities and instruments that are available. We must ensure that civil liberties are not the first casualty of war, because terrorist attacks threaten more than the tragic loss of individual lives: some terrorists hope to provoke responses that undermine our democratic systems of government. As political leaders, we must find an appropriate balance by adopting counter-terrorism policies that are effective while recognising and respecting the democratic traditions that are the bedrock of our strength. I, for one, am not sure what the position is. However, I am pretty confident that it is not the same as the position in 1993.

Combating terrorism should not be used as a pretext for discrimination against any segment of society. Terrorists often claim to act on behalf of ethnic groups, religions or even entire nations. The Irish Republican Army used to say that it spoke for people with surnames like mine. It never did. Claims of that sort are always false.

**Robert Brown:** In Northern Ireland, where internment was used most recently, it allowed the IRA to profit by taking refuge in the sympathy of the local population. Is that not a risk inherent in all internment procedures?

**Brian Fitzpatrick:** There is such a risk. No one can be happy about the extension of powers of detention, although we do not need to accept everything that Kenny MacAskill said in his outburst. I am mindful of the fact that the Government has sought to build safeguards and checks into the legislation. I recognise also that we and our Liberal Democrat partners differ on this issue on principle.

I understand that under the procedure that is proposed at Westminster a certificate will be issued on the basis of evidence presented to the secretary of state by the intelligence services.

There will be a right of appeal to the Special Immigration Appeals Commission, which will include a High Court judge. It is possible that Kenny MacAskill will be lucky and that Lord Cullen will be among those to hear such appeals. However, I suspect that objections would then be made to the participation of Scottish judges in UK-wide activities. The commission will be able to examine the circumstances of the case before it and certificates will be reviewed on a six-monthly basis. I am mindful of the concerns regarding detention, but I am also mindful of the Government's legitimate attempts to make—

**Mr Lloyd Quinan (West of Scotland) (SNP):** Will the member give way?

**Brian Fitzpatrick:** Yes.

**Mr Quinan:** Can the member give me an idea of the quality, origins or standard of evidence that will be used in these hearings?

**Brian Fitzpatrick:** If Lloyd Quinan would like me to, I would be happy to spend a couple of hours later helping him to answer that question. He may be asking whether guilt will need to be proved beyond reasonable doubt. I accept that different measures are applied in cases of the sort that we are discussing. Those measures were upheld recently by the House of Lords in the Rehman case. I refer the member to that case, the terms of which I am sure he is familiar with.

As an individual member of the Labour-Liberal Democrat partnership, I am somewhat upset that we do not intend to accept the bill's provisions on incitement to religious hatred. I do not see any difference between the threats and abuse that Muslim constituents of mine face in Bishopbriggs and the threats that Muslims in Bradford and other places face. However, I am conscious of the need to find consensus on that issue. We should see what we can do to tackle it in Scotland. I ask the minister to let us know what progress is being made in that regard.

Our position is different from that set out by Phil Gallie. I do not intend to support measures that would offer people the prospect of going only to countries where they faced torture and death. That seemed to be Phil Gallie's view. I know that he is obsessed with the ECHR, but we are dealing here with an obligation that we have, not under the ECHR, but as United Nations members. We must raise the level of debate on this issue.

10:35

**Mr Lloyd Quinan (West of Scotland) (SNP):** Clearly, the principal issue at stake in this debate is the rule of law. In any state that is governed by the rule of law, if the state wishes to deprive someone of their liberty, it should prove the



necessity of that. If someone is suspected of being an international terrorist, they should be put on trial for that crime. The principal issue that we are debating is the suggestion that there should be detention without trial.

**Gordon Jackson:** None of the SNP members who have spoken so far has accepted that the issue of detention without trial has nothing to do with the Sewel motion that we are debating, which would not affect that issue one iota. In other words, the issue of detention without trial is being used as a device in this debate. Does Lloyd Quinan accept that?

**Mr Quinan:** I refute that totally. The principle that I am discussing is the right to a fair trial. The motion refers to a bill that would remove the possibility of fair trial from a number of people. For that reason, the issue of detention without trial is relevant to the debate.

**Iain Gray** rose—

**Mr Quinan:** I will not take an intervention at the moment from Mr Gray.

Historically, the use of detention without trial in this country has been a singular failure. The use of internment in Northern Ireland, where there was no burden of proof whatever, resulted in the arrest of 340 people in a 24-hour period, 160 of whom were released within 36 hours. A number of people who were arrested under those powers went on to win cases in the European Court of Human Rights against the British Government on the ground that they had been detained without trial.

During the Falklands war, members of the Argentinian armed forces who were living in this country were interned. That was a war. As Gordon Jackson pointed out, the circumstances in the first and second world wars that led to the use of internment were very different from the circumstances now.

Article 15 of the European convention on human rights, which allows states to seek a derogation from article 5 of the convention, says that such measures may be taken

“In time of war or other public emergency threatening the life of the nation”.

Clearly, we are not at war, as there has been no declaration of war. There was a declaration of war during the first world war, the second world war and the Falklands war. The use of internment in those circumstances is radically different from its use at a time when no formal declaration of war has been made.

We must, therefore, assume that the derogation is being sought under the provision that refers to a “public emergency threatening the life of the nation”.

How does the direct threat to the life of the nation of Scotland at this time differ from the threat to this nation during 35 years of war with the Irish Republican Army? During that period far more casualties were caused in the United Kingdom by the actions of the IRA than by the actions of any other terrorist organisation, but the British Government did not require to seek derogation from the ECHR or to introduce a rolling programme of internment without trial.

The real issue here is the requirement that the special relationship be maintained. The United States wants one individual extradited. Under current British law, that individual cannot be extradited, so we are seeking derogation from an international treaty to allow the British Government to hand over people to a country that has the ability to issue a death sentence, which is entirely contrary to United Nations conventions. That is the principal reason that we are discussing this issue.

As members have said, in the past week much has changed in the conflict in the Hindu Kush. Do we face the same level of threat that we faced last week? If so, I would like the minister to tell us exactly what the threat is. Is it greater than the threat that we faced during the 35 years of attacks on the mainland of this country by the IRA? If so, let the minister tell us that right now or state clearly his reasons for not providing us with a straightforward answer to the question, “What level of evidence will be required for the power of detention to be invoked?”

If the minister cannot do that, I must simply say that the bill will be bad law, which will have been rushed in as a knee-jerk reaction to a particular event. For the Government, the most important thing is that the bill will seal the special relationship between the poodle and the lamppost of the United States and the UK.

**The Deputy Presiding Officer:** We now move to wind-up speeches.

10:40

**Iain Smith (North-East Fife) (LD):** As some members have said, today we are discussing not the wider implications of the Anti-Terrorism, Crime and Security Bill, but the Sewel motion. I am concerned about the process that we use for such motions. Perhaps the Procedures Committee will consider, in early course, how the Parliament deals with them. Before Sewel motions come to the Parliament, committees should have as adequate an opportunity to scrutinise them as they normally have with other motions.

My concern arises from the truncated time scale to deal with the Sewel motion, which relates to a major piece of Westminster legislation. The bill was published on Monday; today, Thursday, we

are considering the Sewel motion. The bill includes 125 clauses, which run over 70 pages, and an additional eight schedules, which run over a further 41 pages. I am concerned that such a complex bill is being rushed through Westminster with a time scale that is inadequate for proper consultation and scrutiny. It would be preferable if the Scottish Parliament had more time to consider the Sewel motion.

As Robert Brown remarked on behalf of the Liberal Democrats, it is important to remember that our support for the Sewel motion should not be taken as support for the Anti-Terrorism, Crime and Security Bill. I do not agree with the concluding remarks of the minister's opening speech, in which he stated:

"We consider the Anti-Terrorism, Crime and Security Bill to be a proportionate and carefully targeted piece of legislation."

Given the derogations from the European convention on human rights, the bill is not an appropriate and proportionate measure. Lloyd Quinan made some valuable points about how the level of risk will be defined. Once the bill is enacted, how will the passing of that risk be defined so that the bill can be removed from the statute book? The fact that the bill contains nothing to indicate how that would happen is extremely worrying.

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

**Iain Smith:** I have only four minutes. I have used up half my time already and am barely started.

Human rights are fundamental. They are not a menu from which the Government can pick and choose at will. The purpose of human rights legislation is to protect us from the will of Government. Detention without trial is not acceptable to me as a Liberal. I agree with John Wadham, the director of Liberty, who says of the bill:

"The Government intends to jail people not for anything they have done, but for what the Home Secretary thinks they might have done or might do in the future. This punches a hole in our constitutional protections—and the Government can only get away with it because they're using it against foreigners."

That is an important point. He continues:

"Why is it that none of the other 40-plus European countries that have signed the Human Rights Convention feel they have to do this?"

I agree with those points. I also agree with my colleague Simon Hughes MP—although only to an extent; he should perhaps have gone further—who said on Monday:

"Everybody must have the right to have their detention reviewed by the courts."

That is an absolutely fundamental human right, which must be kept. He also made the important point that we Liberal Democrats

"shall seek to build the broadest possible political coalition to ensure that we do not give up on democratic or human rights at home, just at the moment when we are so energetically campaigning for them abroad."

The problem with the SNP's amendment is that it shows that the SNP does not understand the constitution. This morning's debate is not on the Anti-Terrorism, Crime and Security Bill. Even if the Parliament were to debate the bill and vote against it, that would make no difference because Westminster could still pass the bill; the measures that cause us concern—such as detention and the derogation from the European convention on human rights—could still be passed by Westminster, whatever the Scottish Parliament says. Today, we are debating only what is in the Sewel motion, which we need to consider on its own merits.

**Fiona Hyslop:** Will the member give way?

**Iain Smith:** No, I must conclude.

The bill contains 10 proposals that relate to devolved responsibilities. The Executive has said that three of them will not apply to Scotland and the Parliament has agreed to Sewel motions on two others in the past. That leaves us with only five. Of those five, it makes sense that information on passengers, European justice and home affairs legislation—which would be subject to scrutiny by this Parliament—security of premises and dangerous substances should be dealt with consistently on both sides of the border. Indeed, I tell Roseanna Cunningham that premises in my constituency have been subject to a number of hoax packages and threats, some of which occurred even before 11 September. We know the need for the bill.

I have some concerns about the bill's provisions on DNA and fingerprinting, but such concerns can be dealt with when the bill is considered at Westminster. I support the Sewel motion. However, I believe that we need to review the process for Sewel motions and I ask the Procedures Committee to do that. I have concerns about many of the reserved matters in the bill, but those are not matters for debate in the Scottish Parliament. Those matters will be vigorously opposed by the effective Opposition at Westminster, which is the Liberal Democrats.

10:45

**Bill Aitken (Glasgow) (Con):** I shall deal with the amendment presently, but it is appropriate that I begin by expressing the genuine regret from all parts of the chamber that the bill is necessary. The reasons for the bill are self-evident. As Iain Gray

said, an uneasy and difficult balance is required, but it is essential to defend our interests. The reality is that the lives of our people are under threat.

Some may advance the argument that we have been too soft for too long. However, our view on civil liberties is that our basic fairness has deterred us from taking such steps before now. The events of 11 September demonstrated that others have no such inhibition. We will support today's motion, but our colleagues at Westminster will oppose certain aspects of the primary legislation.

Let me turn to the SNP's amendment. The best way to destroy one's case is to overstate it. Basically, the SNP is fighting on the wrong issue. I know that SNP members sincerely hold the view that there are too many Sewel motions, but I suggest in the strongest terms that today's motion is not one with which they should take issue. The issues are far more serious than the SNP's wish to revisit the devolution settlement.

**Stewart Stevenson:** Does Bill Aitken accept that when Winston Churchill introduced emergency powers legislation, as a result of getting a bullet in his Afghan coat when attending the Sidney Street siege, he laid the basis for a whole series of acts, such as the prevention of terrorism acts, all of which were passed without adequate debate? To deprive this Parliament of contributing to the debate will lead to bad law and to all the consequences that my friends have mentioned.

**Bill Aitken:** We are debating the motion today. I do not recall that there was any request from the SNP's business manager for a longer debate on it. I am sure that such a request would have been granted, had it been made.

**Mrs Margaret Ewing (Moray) (SNP):** She did ask.

**Bill Aitken:** The member states that the SNP business manager did ask for a debate. Even so, the SNP has the facility to use its own time to debate the matter. It is obvious that the SNP would do that if it considered the issue sufficiently important. In the main, the SNP has failed to address the serious issues.

However, Kenny MacAskill was right to deal with detention, as that is an important matter. All of us are uncomfortable with the concept of detention without trial. As Brian Fitzpatrick pointed out, however, an appeals mechanism will be put in place to cope with the inadequacies of such a system, so there will be a safeguard. Obviously, we would prefer there to be no detention without trial but, with the safeguard in place and in view of the present situation, we have no option but to go ahead with that.

The Liberals' contribution to the debate has been characteristically idiosyncratic. They appeared to object to the terms of the bill but, in their usual supine manner, they will support the Executive's Sewel motion. Most people would find the Liberals' position a little inconsistent, but—after all—we are talking about Liberals.

Of course we all wish that we did not need to debate this serious matter. When the bill is considered at Westminster, the Conservative representatives will take issue with a number of aspects. We are unhappy with the clauses on the incitement to religious hatred. We would defend the liberties of vulnerable faith communities, but we think that those provisions are perhaps unnecessary.

We argue that, rather than invoking the powers of detention, the Home Secretary should take steps that would allow him to remove dangerous foreign nationals from the country. That would answer many of the worries and it would get those people out of the country, perhaps preventing terrorist outrages. Such issues will have to be addressed.

It is unfortunate in the extreme that SNP members should have chosen such an issue on which to advance their well-documented detestation of Sewel motions. This is a united kingdom, and will long remain a united kingdom. If we were to legislate separately, and if there were inconsistencies between English and Scottish legislation, a chaotic situation would result. That would do no one any good whatever.

10:51

**Roseanna Cunningham:** Bill Aitken appears not to have been in the chamber on the numerous occasions when SNP members have made many of the same points about previous Sewel motions as we are now making about this Sewel motion. Indeed, I managed to refrain from doing a simple cut-and-paste job on previous speeches; I have changed the words this time for the sake of my sanity. We have made this argument consistently and we will go on doing so. It is about the fundamental constitutional settlement for this Parliament. Every Sewel motion, by its existence, goes to the heart of that.

I go back to Donald Dewar's comment—which I notice no Labour member has mentioned—that it was not expected that we would deal with Sewel motions very often. In fact, we are dealing with them practically every week. Something that Donald Dewar did not expect to happen has, indeed, happened.

In my opening remarks, I should have said that we applaud and support the Scottish Executive opt-outs. We look forward to Executive proposals

on religious hatred. I concede that that will be a difficult issue, but we must consider it in a Scottish context. However, the same argument can be extended to the remainder of the proposals in the Sewel memorandum.

James Douglas-Hamilton reminds us that detention without trial—or, more properly, internment—will apply only to foreign nationals. I appreciate that the Government has tried to draw the terms narrowly. However, I am not sure that that narrowness helps in the current situation. The pool of potential detainees remains pretty large. They will all, I presume, be Muslims. On past performance, the majority of people who are picked up will be innocent of the charges—or the not-charges of the current proposal. That means that, in one part of the bill, we may do something that we are trying to avoid in another part, with regard to racial aggravation and hatred. The bill will focus on just one religious group in this country.

Iain Gray's astonishing intervention, when he said that detention could be ended by the individual's leaving the country, was unworthy of him. If he had thought a little more carefully, he might not have got to his feet. What he said implied that, if a person was wrongly suspected, that is too bad. That is a bit like witch-finding: bind them with stones and throw them in the water—if they sink they are innocent but if they float they are guilty. Heads the accuser wins; tails the accused loses. The proposals will put people in that ludicrous position.

To Gordon Jackson, I say that much of the memorandum does not necessarily relate directly to current international circumstances. We know that because at least two of the items under discussion were proposed nine months ago and were dealt with in previous Sewel motions. Please do not let anyone argue that everything in the memorandum is an emergency response to the current situation. It is not.

**Gordon Jackson:** I am not saying that the bill is all about an emergency situation, but I still ask Roseanna Cunningham what parts of the Sewel motion are really objectionable in principle.

**Fiona Hyslop:** That does not really matter.

**Roseanna Cunningham:** As my colleague says, that does not really matter. I have already spoken about one part of the memorandum as an example; Mr Jackson chose to forget that and pretended that I had taken it in isolation.

Robert Brown said that the SNP continually uses Sewel motions to raise constitutional issues. He rather misses the point. Does he not understand that the very introduction of a Sewel motion is a constitutional issue? Having a Sewel motion means that we are arguing for a departure from

the agreed constitutional set-up. That is the point. Mr Brown also spoke about onus. He is saying that the onus is now on us to say why we should not depart from the constitutional set-up of this Parliament, instead of its being on the Executive to say why we should depart from it.

I am not arguing that certain measures in the bill are not necessary. However, there is no practical reason why we should not legislate on them in this Parliament. I note that some of the proposals extend to all criminal investigations, not just to terrorism. That is an aspect that Gordon Jackson may have wished to consider. Some issues in the memorandum could be commented on. For example, secondary legislation will now be used to implement European Union decisions. The Parliament may have wanted to consider that in a bit more detail—perhaps the Tories would have had something to say.

As for hoaxes and special statutory offences, there is a continual debate in this Parliament about whether the existing common law is sufficient or whether we need more specified offences. I would have thought that Gordon Jackson—a leading Queen's counsel, as we are continually told—might have had something to say about that.

We could reasonably have debated a number of the issues in the memorandum. However, we have had only 24 hours to consider them. Perhaps Gordon Jackson's brilliance allows him to master, in 24 hours, every item in the memorandum, but I suspect not. The point is that we cannot even have a proper debate about the issues, simply because of the way in which the memorandum has been presented. That is why I am asking for support for the SNP amendment.

10:57

**Iain Gray:** I acknowledge—I will return to this point—that the bill is large and complex. Roseanna Cunningham is right: it deals with many important issues, some of which are very difficult. In normal circumstances, such matters would not proceed without lengthy and protracted scrutiny. However, these are not normal circumstances, as we all agree. The Government decided that the attacks on New York and the associated risks warranted a quick response—although not a rushed response. Two months have passed. That is not a long time but it means that this is not an immediate or knee-jerk response. The Executive supports that robust and comprehensive UK response to the terrorist threat.

It is important to put on record once again that the bill does not represent a rewriting of our legislation on terrorism, criminal offences or policing. Such an overhaul certainly could not be conducted properly in the space of two months.

The bill is a targeted collection of specific measures. It is true, as Roseanna Cunningham says, that some of those measures have been considered previously, as they were thought to be of use. However, the point is that they are now more urgent. That is why they are included in the bill.

**Roseanna Cunningham:** May I ask the First Minister—the First Minister! That is perhaps too soon, although on the basis of last week it may not be. May I ask the minister whether his remarks also apply to the aspects of the Sewel memorandum that will extend to all criminal investigations, not just to those that are connected with the current international situation and international terrorism?

**Iain Gray:** The clauses to which Roseanna Cunningham refers deal with issues where there may be a connection between terrorist offences and criminal offences. For example, under the Terrorism Act 2000, DNA and fingerprint samples may be taken. The changes that we want to make will mean that fingerprint evidence taken from a stolen vehicle may be cross-referenced to records taken during previous terrorism investigations. Terrorism and ordinary criminal activity are linked.

The bill tries to fine-tune and make more effective the existing legal framework in different ways. In the circumstances, its introduction is not inappropriate. I made it clear that on issues to which we want, and there is a reason for, a distinctive approach, we have effectively opted out of the Westminster bill. I am pleased that nearly every speaker has welcomed that. The issues that require a distinctive approach are religious hatred, corruption and the removal of face coverings.

Because we do not see the need for a distinctive Scottish approach on the other measures, we have sought to proceed with them by way of a Sewel motion. In the circumstances, the advantages of a rapid UK-wide approach take precedence. It is extremely important that it is open to the Parliament to amend in future any of the proposals that we sanction today for inclusion in the Westminster bill. The fact that we are using a Sewel motion does not mean that we will somehow lose our competence to legislate on such matters. Roseanna Cunningham is right that some of the measures—on hoaxes or the others that she referred to—might require further examination, with more time and perhaps the consideration of amendments. That is entirely within the power of the Parliament.

Lord James Douglas-Hamilton quoted Councillor Bashir Maan. I take this opportunity to associate the Executive with Councillor Maan's remarks on UK citizens who encourage other UK citizens to take up arms against their country, which is deplorable. Councillor Maan expressed his views

on the issue eloquently, as we heard today.

**Mr Quinan:** During the past number of years of troubles in Northern Ireland, UK citizens urged other UK citizens to take up arms against Britain. Why did we not have similar legislation during that period?

**Iain Gray:** I said that I deplored those actions, and I deplore them in the circumstances that Lloyd Quinan describes.

Lord James Douglas-Hamilton and Roseanna Cunningham mentioned the power to implement European Union measures by secondary legislation. I have two points on that. First, the bill will provide an option, not an obligation, to use secondary legislation. Secondly—I repeat an earlier point—with devolved matters, the power is an option that would be exercised by Scottish ministers, so it would be subject to the scrutiny of the Parliament, although scrutiny of secondary legislation is different from that of primary legislation.

I reassure Phil Gallie that if Osama bin Laden were captured in the UK, including Scotland, it is our understanding that he could be extradited to the United States of America. When murderers have been extradited to the USA in the past, an undertaking that they will not be subjected to the death penalty has been given—that is what allows them to be extradited. In any case, New York state does not have the death penalty, although I am not 100 per cent certain of that. I believe that the situation that Phil Gallie described is resolvable.

The people of Scotland expect to benefit from the same protections that the bill will provide for the rest of the UK. They would not appreciate the constitutional niceties of an approach that could leave Scotland behind in time or in the rigour of the measures. The Scottish people would prefer us to compromise on our powers of legislation rather than to risk compromise on their security.

I think that the people of Scotland would be surprised and baffled by the SNP's arguments. The SNP argue that the devolved aspects of the bill are so important that we need more time to debate them. I agree that those aspects of the bill are important. However, the SNP used the time that it had to debate those measures, first, to debate the procedures of the Parliament—legitimately, in respect of a Sewel motion—and, secondly, to debate an issue over which we manifestly have no legislative power, as it is a reserved matter. Charged with that, Stewart Stevenson claimed that the devolved matters involved are trivial issues of less interest than tabloid gossip. Which case is the SNP arguing?

**Stewart Stevenson:** Will the minister give way?

**Iain Gray:** No. I am sorry.

**The Deputy Presiding Officer:** The minister is in the last minute of his speech.

**Iain Gray:** Which is it? Are the issues so important that we should spend more time on them, or are they unimportant, the only issues that matter being the reserved ones, over which we do not have legislative power?

We are not being asked today to pass the measures in the anti-terrorism legislation; we are being asked to allow the UK Parliament to legislate in devolved areas after it has considered the legislation. We are certainly not being asked to extend powers of detention—we do not have that legislative power. I have made it clear that I support that extension. Other members have made it clear that they do not support it, but that they will still support the Sewel motion. That is an entirely consistent position. I can only assume that those members have confidence in their Westminster colleagues to do their job when the time comes. The question that has to be posed is why the SNP has so little confidence in its famous five, whom it sent to Westminster to stand for Scotland. They were going to stand for Scotland, yet Michael Russell says that they will be cut out. They will presumably be cut out because of the ineffectiveness of their voice in Westminster.

The Anti-Terrorism, Crime and Security Bill will help to undermine terrorist finance and it will prevent abuse of our immigration and asylum procedures by international terrorists. It will discourage the use of dangerous substances and associated hoaxes. The bill is a major one, but the circumstances are such that we are right to use the Sewel convention to move forward quickly and consistently throughout the UK. That must be our paramount concern. That is what Scotland's people would accept and it is for that reason above all that I commend the Sewel motion to the chamber.

## Scotland's Natural Heritage

**The Deputy Presiding Officer (Patricia Ferguson):** We move to the next item of business, which is a debate on motion S1M-2444, in the name of Ross Finnie, on the Executive's vision for the protection and promotion of Scotland's natural heritage. There are two amendments to the motion.

11:08

**The Deputy Minister for Environment and Rural Development (Rhona Brankin):** Scotland's nature is at the heart of what makes our country special. If we diminish it, we diminish our quality of life and our nation's future. That is why earlier this year we published our policy statement "The Nature of Scotland". We wanted to set out our vision for the protection and promotion of our natural heritage. We consulted widely on the policy statement. The huge response proved how many of Scotland's people share our vision. We want to build on that support in taking the proposals forward.

In "The Nature of Scotland" we recognised that our natural heritage is the fruit of many centuries of human stewardship. That wise stewardship needs to continue if natural interests are to be safeguarded for future generations. The pressures are increasing. We are committed to supporting and rewarding those who care for Scotland's natural heritage, but at the same time, we shall enable effective, hard-hitting action against those who seek to damage or diminish the natural wealth that is Scotland's greatest asset.

That action will include new legislation. We announced recently that we intend to produce legislative proposals at an early opportunity and a draft bill will be published as soon as possible. We are committed to protection of our land in a way that reflects the interests of those who use it and those who live on it.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** Many members will welcome the intention to legislate to introduce prison sentences for those convicted of serious wildlife crime offences. Will such legislation be introduced in this Parliament before 2003?

**Rhona Brankin:** I reiterate that we are committed to drafting the bill to introduce those changes, and we will introduce the bill as soon as possible. It is important that we get the draft bill out for consultation. We are committed to doing that as soon as possible.

We are proposing new powers for Scottish Natural Heritage to prevent damage and deterioration to sites of special scientific interest.

The SSSI system has served Scotland well, but reform is needed to introduce a system that will serve Scotland better. On those occasions when it is necessary, SNH will be able to refuse consent for activities that will damage SSSIs. We will provide a new appeals mechanism for anyone aggrieved by a refusal and we will ensure that a fair compensation system is in place.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** Will the minister give way?

**Rhona Brankin:** Not just now.

Land managers will be compensated if refusal of consent inhibits the established management of their land, but we will no longer countenance claims for the refusal of damaging new projects. The detail of the proposals is being worked out with assistance from a wide variety of interested parties. Their support has convinced us that the measures we propose are fair.

We are also proposing tough new measures against those criminals whose selfish actions deprive us all of the opportunity to enjoy some of our most special wildlife. In the 21<sup>st</sup> century we can no longer tolerate the 19<sup>th</sup> century practices of poisoning or shooting birds of prey or the stealing of birds' eggs. We have proposed new powers to allow the police to detect wildlife crime and new powers for the courts to impose stiffer penalties for those guilty of acts of wildlife crime. Those include the option of custodial sentences.

We received many constructive ideas about how to take forward the proposals contained in "The Nature of Scotland". To help to forge those ideas into practical measures, the Executive has established an expert working group involving land managers, conservationists, public bodies and others. I am pleased to report that the group is achieving a high degree of consensus on how the proposed measures should be implemented. We will be using the work of the group to help us to draft legislation, and to develop the supporting policies that we announced in "The Nature of Scotland".

Legislation is for the future and is only part of the story. Much is being done now to protect and promote Scotland's natural heritage.

**Mr Keith Raffan (Mid Scotland and Fife) (LD):** The minister mentioned legislation on wildlife crime and she mentioned SSSIs. Will she address the issue of national scenic areas, which are our equivalent of areas of outstanding natural beauty down south, which urgently require statutory provision?

**Rhona Brankin:** Yes. Of course that is taken into consideration. We need to adopt an integrated approach to the future of Scotland's natural heritage. Much is being done to protect and

promote Scotland's natural heritage. As is made clear in "The Nature of Scotland", the Executive is committed to that integrated package of policies and incentives to help people to manage the natural heritage.

We have used the SSSI system to fulfil our international responsibilities. The European Union habitats and birds directives govern our contribution to the Natura 2000 network of European protected areas. Special protection areas for birds and special areas of conservation for habitats and species listed in the habitats directive are normally protected through the SSSI system.

Those international interests are all around us—from the common terns that nest around the cranes in the Port of Leith to the corncrake that breed in the Hebrides and the geese that feed in the fields across Scotland. Some of our typically Scottish habitats, such as the machair of the Western Isles and our bogs and heather moorland, are unrivalled anywhere else in Europe. To protect those species and habitats of international importance, we have as of today designated 131 special protection areas and proposed 221 special areas of conservation in Scotland.

**Nora Radcliffe (Gordon) (LD):** Will the minister comment on the effect of global warming on habitats for rare species such as the capercaillie or for upland species such as the ptarmigan?

**Rhona Brankin:** I assure the member that we are aware of the potential impact of global warming on species such as the capercaillie and the ptarmigan. As the member also will be aware, through our climate change programme we are seeking to mitigate the potential effects of climate change on Scotland. The member probably heard on the radio yesterday that a great deal of work is being done in that area. The Scottish Executive is involved in advancing projects to protect the capercaillie. The member will recognise that a variety of factors are contributing to the decline of the capercaillie. We are contributing to programmes to remove deer fences and to other measures to protect that species.

**Fergus Ewing:** Will the minister give way?

**Rhona Brankin:** If Fergus Ewing does not mind, I will move on.

"A Forward Strategy for Scottish Agriculture" highlights the need for a joined-up approach to agriculture and environment policy. We are developing those policies in partnership with the farming industry and the environmental sector, and have set up an agriculture and environment working group, which will report to ministers next year.

A number of agri-environment schemes support environmentally friendly farming. The rural stewardship scheme gives priority to plans that focus on the effective management of farmed environments that are important for biodiversity and protected areas.

**Robin Harper (Lothians) (Green):** Will the minister give way?

**Rhona Brankin:** If Robin Harper does not mind, I wish to get to the end of my speech.

The Executive's funding of agri-environment schemes, including the rural stewardship scheme, is continuing on a rising trend, and will increase from £22 million this year to £37 million per year by 2006.

But we are not talking only about land. Our marine heritage is also subject to growing pressure from pollution and over-exploitation of fish stocks. We are committed to the sustainable management of our seas and coastlines, and our contributions to the forthcoming reform of the common fisheries policy will reflect that commitment. We are currently involved with our UK partners in a review of marine nature conservation, and shall study carefully the implications of that review for Scotland.

Protected areas are equally important in the marine environment. We have recommended marine special areas of conservation in inshore waters for inclusion in the Natura 2000 network and are expecting scientific advice on the classification of special protection areas for birds. We will be in the forefront of applying the habitats directive in offshore waters. The recently discovered cold-water corals of the Darwin mounds between Shetland and the Faroe islands are likely to become part of the first UK special area of conservation beyond 12 nautical miles. We are conscious of the need to work with those who earn their living from the marine environment. There is local involvement in management fora to care for marine sites. In addition, we have benefited from financial support from the EU LIFE fund.

The proposals in "The Nature of Scotland" go beyond protected areas. Biodiversity—the variety of all living things—is an essential resource for sustainable development and a measure of success in delivering sustainability. Much has already been achieved for biodiversity through the Scottish biodiversity group. That broad-based working partnership involves the Executive, its agencies, local government, voluntary bodies, land users and the business sector. Partnership is, once again, the key feature. The Executive cannot deliver their policies without such support, and I take this opportunity to express my respect for the work of the Scottish biodiversity group. It is right

that the Executive should set an example, and we have proposed a specific duty on Scottish ministers to have regard to the conservation of biological diversity in the exercise of their functions. That will be included in the new legislation.

**Bruce Crawford:** Will the minister give way?

**The Deputy Presiding Officer:** The minister is winding up.

**Rhona Brankin:** Scotland's nature is a national asset, but to maintain that asset requires resources. Scottish Natural Heritage's budget has been increased from £39 million in 1999-2000 to £48.5 million in 2001-02. A substantial part of that increase is intended to allow SNH to enter into more positive management schemes for the benefit of SSSIs and the people who manage them. Last month, I was pleased to launch SNH's natural care programme of management schemes for key habitats and species. The incentives provided by the natural care programme will ensure that more people will benefit from having protected areas on their land.

Our countryside and wildlife already bring great enjoyment to Scotland's people and visitors. Who could fail to be thrilled by the sight of dolphins leaping in the Moray firth or the gannets on the Bass rock? Our countryside and wildlife are assets that already pay dividends. Around 1.25 million tourists from other parts of the UK visit Scotland to participate in mountaineering, climbing and hill walking. That generates £275 million annually for the Scottish economy and it supports almost 10,000 jobs. Clearly the highest standards of wildlife protection go hand in hand with success in attracting tourism.

The natural heritage is also at the heart of our proposals to establish national parks in Loch Lomond, the Trossachs and the Cairngorms. Our investment is for all Scotland's people, their children and their grandchildren. We want everyone to understand why our natural heritage is special and to have the opportunity to appreciate and enjoy it. If we work together for our natural heritage, we will see benefits for all who live in, work in and enjoy our magnificent country.

I move,

That the Parliament supports the Scottish Ministers' intention to come forward with legislative proposals to protect and promote Scotland's natural heritage; notes the widespread support for this proposed reform, and agrees that improved protection of nature requires a combination of new legislation and integrated land use policies and incentives currently being developed by the Executive.

11:21

**Bruce Crawford (Mid Scotland and Fife) (SNP):** In the document "The Nature of Scotland",



published in March—as the minister rightly said—**Sam Galbraith** said:

“Scotland's nature is at the core of what many of us believe makes our country distinct and special”.

He also said:

“Our natural inheritance is in many cases the fruit of many centuries of human stewardship.”

How right he was. Proper stewardship of land, rivers, lochs and seas is something that runs deep in the Scottish make-up. It is part of who we are. In Scotland, the royal title of Steward of Scotland has been in use since the 14<sup>th</sup> century. That reflects a long tradition of guardianship on behalf of the public interest.

I wonder, however, what the previous Stewards of Scotland would think of the actions of today's Government. I can only say to the minister that the lack of commitment shown in the tenor of her speech today explains why she has nothing new to propose to the Parliament in the way of action. Nothing has moved since March and the publication of “The Nature of Scotland”—not one thing.

**Dr Sylvia Jackson (Stirling) (Lab):** Would the member like to say what he thought the minister meant when she said “as soon as possible” in her speech?

**Bruce Crawford:** If Sylvia Jackson looks at the SNP's motion, she will see that we have demanded a timetable. I have heard nothing from the minister about a timetable for action on any of the issues about which she spoke. Although the intention might be in the right place, there is no action in the shape of a timetable for the introduction of a wildlife crime bill or a modernised system of SSSIs, for which the SNP has called in its motion.

**Mr Raffan:** If the member is so concerned about wildlife crime, why was it not mentioned in the SNP manifesto in 1999?

**Bruce Crawford:** I am so concerned about it that I was the only person to mention it during the programme for government debate, unlike any Government minister or back bencher from the Liberal Democrats or the Labour party.

Also missing from the minister's speech is a timetable to give Scottish ministers a specific duty relating to biodiversity.

The Executive is right to say in the motion that there is widespread support for such reforms. It is also true to say that there is support for action, as witnessed by the 10,000-signature petition that calls for wildlife crime legislation. Such legislation is urgent because it is well known that wildlife criminals are targeting Scotland since tougher laws have been implemented in England. Wildlife

criminals now view Scotland as a soft touch. It is time that the Executive acted to sort out what Donald Dewar called a national disgrace. There will be great disappointment in many parts of Scotland that no timetable was mentioned today.

The issue of modernising SSSIs is another area where reform is desperately needed. Under the current system of designating SSSIs, wildlife has continued to decline on many protected sites. It is also true that the people who live and work in the countryside are concerned that those designations affect their livelihoods. They await action, not more words.

There is a pressing requirement to introduce a much stronger voice for local communities, local authorities and landowners, to improve consultation with them on the designation and management of SSSIs and to ensure much more open and transparent decision making. Crucially, we need to sweep away much of the time-consuming and confusing bureaucracy, but we do not yet have a timetable for doing that.

Those matters were glaring omissions from the recently announced programme for government and nothing has changed today. Why is that? I hate to say it, but we told you so. The lack of action was inevitable from the day that Ross Finnie was appointed as Minister for Environment and Rural Development. At that time, we pointed out that—through no fault of his own—Mr Finnie's portfolio was overloaded. We asked how he could be expected to deal with the fishing industry and the catastrophe of foot-and-mouth disease and to guide through two water bills at the same time as taking action on his environmental responsibilities.

The lack of action is visible to everyone in the failure to act on commitments in “The Nature of Scotland”. We warned of the potential for conflicts of interest. Unfortunately, those have been only too visible in the decision to give the go-ahead to new genetically modified crop trials at Munloch or the refusal to concede a public inquiry into the contentious issue of sea cage fish farming. The pending coronation of the new First Minister is the perfect opportunity to correct the wrong and muddle-headed decision to combine portfolios and to ensure that there is a dedicated minister for the environment, who will champion environmental concerns and ensure that the Executive adopts an integrated stewardship approach.

What is stewardship about? At its simplest, stewardship is the notion of entrusting people with the responsibility to care for the community to which they belong, for the land they own and work on and for other living things. The concept also involves a strong culture of pride in the things that are special about Scotland. By necessity, it means Government, individuals, communities and organisations—public and private—taking a pride

in Scotland. It means that Government must recognise that, for all to thrive, the nation has a responsibility to live within particular boundaries. Those boundaries need not be onerous for Scotland.

Stewardship simply requires Government and the nation to accept that future generations have a legitimate interest—to ensure that valuable assets that past generations helped to create for us, such as our natural heritage, can be passed on in good order for future generations. It also means that Government must act not only for the good of individuals or organisations, or for its own benefit, but to increase the common good. In recent days, when the press has been full of accusations of cronyism, some quarters would do well to pay heed to that ethos.

Government must also recognise that we might have to accept a reasonable constraint on our freedom to act, but that does not need to mean a welter of new regulation. On the contrary, if a greater sense of individual responsibility, common good and recognition of our mutual obligations can be fostered, there might be fewer requirements for burdensome regulation and legislation.

A stewardship approach by the Executive would inevitably lead to some searching and fundamental questions about whether funds are being used for the common good and about how the decision-making framework can be developed to take account of the interests of future generations and the species with which we share the place that we call Scotland.

I move amendment S1M-2444.2, to leave out from “, and agrees” to end and insert:

“and the many open ended commitments in the policy statement *The Nature of Scotland*; calls on the Executive to publish a timetable for the introduction of a Wildlife Crime Bill and a modernised system for the protection and management of Sites of Special Scientific Interest; records its concerns over the portfolios of rural development and environment continuing to be the responsibility of the same Minister, and further calls on the Executive to adopt an integrated ‘stewardship’ approach to the development and implementation of its policies in regard to the natural heritage and resources of Scotland.”

11:29

**John Scott (Ayr) (Con):** As a farmer and the owner of land that is about to be designated as an SSSI to protect hen-harriers, I must declare an interest.

We must take a broad view. In general terms, I give a qualified welcome to the Executive’s proposals that are published in “The Nature of Scotland” and to many of the details that the minister outlined. The document and its proposals will have a far-reaching impact on rural Scotland. Any owner, occupier or manager who is not aware

of its existence should get a copy forthwith and read it. The proposals represent the Executive’s attempt to address the problems of competing interests in SSSI designation and to extend significant further protection to wildlife. I will deal first with the increased protection of wildlife, as outlined in the document.

The Conservative party, too, welcomes the new proposed powers of increased protection of Scotland’s wild birds, animals and plants from wildlife crimes. We welcome particularly the intention to protect the capercaillie more, but we question the wisdom of completely removing deer fencing to do so. We also welcome the new strategy for species reintroduction, but that must be carefully monitored. The long-term impacts must be carefully assessed.

Our disagreement with the Executive is a matter of emphasis in land and sea management, and particularly over the current and new designations of SSSIs, special protection areas, special areas of conservation and national nature reserves. I recognise that the Executive has obligations under various European Union directives to create new SSSIs, SPAs, SACs and NNRs, but I ask that a better balance be struck between the interests of all parties involved. I accept that “The Nature of Scotland” represents a change in the attitude of the Executive and SNH to trying to deliver a more inclusive approach, but that does not go far enough. Owners, occupiers and managers of land will remain unhappy.

“The Nature of Scotland” raises expectations of adequate compensation for SSSI designation, but the detail—if I have understood it correctly—means that little compensation will be paid to managers, occupiers and owners of land. The minister’s statement today about the increase in SNH’s budget does little to reassure me.

One could not disagree with the motherhood and apple pie principles that Sam Galbraith outlined on 7 March 2001, but the reality is that those who must live with the designations daily and with the restrictions that they impose remain apprehensive, because, as the document says on page 35:

“There should be a stronger voice for local authorities and local communities in the designation and management of SSSIs, balanced with the need to ... respect the rights of the owners and occupiers of the land.”

Owners and occupiers do not know what that means. How will the phrase “local communities” be defined? Who will have the final say on the desire on which all agree—

“to secure the protection of Scotland’s most important nature sites”?

There is the rub. Ultimately, the designations—the protection of our precious habitats—cannot be

delivered by decree alone. SNH and the Government must secure the full co-operation and commitment of owners and occupiers. The proposals do not adequately address the need to recognise that a burden is being imposed on owners and occupiers without compensation being paid, in many cases.

**Bruce Crawford:** "The Nature of Scotland" also says:

"There will be increased resources to provide incentives for the positive management of SSSIs".

I thought that ministers might have said this, but I will do it for them. The document says:

"We will end claims for large compensation payments"

and that the Executive will consult site owners. I struggle to find the difference between the Conservatives' amendment and many statements in "The Nature of Scotland".

**John Scott:** If the member had listened to the debate, he would have heard that I am talking about a difference in emphasis.

**Bruce Crawford:** I am talking about the Conservatives' amendment.

**John Scott:** I thank Bruce Crawford for his intervention, but I will continue. The EU habitats directive is at odds with human rights legislation. Although the proposals represent a move in the right direction, I still do not believe that they adequately address the conundrum.

The proposals also do not recognise that the management and conservation practices of the past delivered what is regarded today as so worthy of protection. They do not recognise that only thriving businesses can deliver environmental enhancement and protection. Social and economic factors are not sufficiently regarded in the proposals. However, the proposals recognise that global warming, to which Nora Radcliffe referred, may render the whole strategy ineffective.

The proposals represent a desire to freeze-frame the situation and stop it from evolving organically as it did over generations and centuries.

**The Deputy Presiding Officer:** Please wind up.

**John Scott:** The proposals do not acknowledge that the rural stewardship scheme, which I understand will finance the proposals, is significantly underfunded.

**Dennis Canavan (Falkirk West):** Will the member give way?

**John Scott:** Yes.

**The Deputy Presiding Officer:** I am sorry, Mr Canavan, but Mr Scott is winding up and will have to continue.

**John Scott:** We accept the broad principle of the strategy, but despite the more conciliatory tone, we do not believe that it goes far enough to achieve the full co-operation of those who will have to deliver it daily. That is why we lodged our amendment, which I urge the chamber to accept.

I move amendment S1M-2444.3, to leave out from "and promote" to end and insert:

"Scotland's wildlife and welcomes their proposals to promote and continue to protect Scotland's natural heritage; recognises the conservation practices of previous generations; supports the need for an overall balance to be struck which recognises the needs of local communities, land owners, occupiers, managers and conservationists alike, and urges Scottish Natural Heritage to take more account of local interests and knowledge and to consult more widely before designating further Sites of Special Scientific Interest."

11:35

**Nora Radcliffe (Gordon) (LD):** Scotland's wildlife and natural beauty are essential elements of our national identity and culture, and contribute significantly to our economy. It is therefore tragic and unacceptable that mindless persecution of rare species and damage to important natural sites continue. Too little is done in Scotland to punish offenders such as rogue gamekeepers, egg collectors and criminals who trade in protected species, and conversely, too little is done to reward responsible farmers and landowners who manage and protect Scotland's most important sites.

I am pleased, therefore, to speak to a motion that reaffirms the Executive's intention to introduce a bill in line with the proposals outlined in the policy statement "The Nature of Scotland", which was published in March.

**Fiona McLeod (West of Scotland) (SNP):** Given that the minister said three times that she would introduce a bill as soon as possible, will Nora Radcliffe proceed with her proposed member's bill, to ensure that such proposals are on the timetable for this session?

**Nora Radcliffe:** If I thought that proceeding would bring forward the introduction of such proposals, I would.

The proposals in "The Nature of Scotland" received widespread approval and support, and there was great disappointment that a related bill was not included in the September list of legislation to be dealt with in the next few months.

The proposals have three main strands: maintenance of biodiversity, substantial reforms to the way in which we work with land managers and communities to protect and manage the most special of our natural assets, and new measures for the effective deterrence, detection and

punishment of crime against wildlife.

“Action for Scotland’s Biodiversity” was published last year. Most local authority areas have local biodiversity plans, and the document, “A Flying Start: Local Biodiversity Action Plans in Scotland”, which was published in August 2001, outlines how much is happening throughout Scotland.

An important aspect of local biodiversity action plans is the way in which they have been produced by a wide range of people and organisations working together. If they are to be effective, an even wider range of people must understand what they are, why they are necessary and that everyone must contribute. A big job of awareness raising must be done.

The big three—farming, fishing and forestry—are industries where an impact on the environment is expected and considered. Developers, industry, commerce and private individuals must all be made aware that they are just as important a part of the equation. There are 90,000 species of animals, plants and microbes living in Scotland’s land and sea, and they are everywhere—not just in the pretty bits of the countryside. They provide us with food, building materials and medicines; they recycle nutrients and convert carbon dioxide into oxygen.

Are members beginning to feel that they should be more involved in protecting all 90,000 building blocks of our ecosystem? Would they be happier if more were known about how each building block fits into the structure and which are crucial to its continued existence?

We are experiencing the effects of our actions in past decades with global warming. We started that process and do not know how far it will run until we manage—if we do—to slow it and reverse it. Monitoring species as part of biodiversity action planning will give us an idea of what is happening and how we are doing.

As I said, a strong feature of local biodiversity action plans has been the way in which people have worked together to develop them. That way of working—involving local communities and organisations in looking after their own environment—should be extended to how we deal with particularly rare, precious or important parts of the environment. The proposals in “The Nature of Scotland” will do that.

It is intended that we change from paying people not to do things to more positive measures that support people to do things. That is good. Carrots can work well, but sometimes a stick is needed. There have to be sanctions against people who persecute or destroy rare species or who damage precious habitats, whether that is wilfully or recklessly.

Last week, the Transport and the Environment Committee dealt with a statutory instrument that gives the capercaillie greater legal protection. That is very laudable, but what resources are in place to ensure that the legal protection that is given on paper has some force on the ground?

Perhaps we do not take wildlife crimes seriously enough because people do not think that such crime is big business. We should reflect on the fact that it is estimated that crimes involving abuse of wildlife generate a turnover globally of about £2 billion. That represents organised crime on a scale that is second only to the drugs trade. However, the penalties that are imposed on wildlife criminals are derisory. A live falcon can fetch over £5,000 in the middle east or Germany. In the unlikely event that a trapper is caught, prosecuted and convicted, the fine that is imposed ranges from £90 to £150. That is hardly a deterrent.

The falcon would at least be reasonably well treated, but other wildlife might not be so fortunate.

**The Deputy Presiding Officer:** I ask the member to wind up.

**Nora Radcliffe:** Badger baiting continues to go on in Scotland despite badgers being fully protected by the law.

It is time to make the penalties for wildlife crime more realistic. Since the Countryside and Rights of Way Act 2000 was passed, penalties in England have been stiffer. Committing a wildlife crime in Scotland is therefore a much more attractive prospect. We need a bill that will tackle crime and which will bring in other measures to protect and promote Scotland’s natural heritage. A draft bill is now eagerly anticipated. I hope that that anticipation will be satisfied speedily.

**The Deputy Presiding Officer:** A large number of members wish to take part in the debate, but very little time remains. So that I can try to accommodate all those who wish to speak, I ask members to keep their contributions to three minutes if at all possible.

11:42

**Dr Sylvia Jackson (Stirling) (Lab):** A current ScotRail *Outlook* magazine contains no fewer than 19 photographs of Scotland’s scenic beauty. I am pleased that at least one of the photographs was taken in my constituency.

Those images of beautiful landscapes, peace and tranquillity are what attract visitors to Scotland. Speakers at a recent meeting of the cross-party group on tourism, convened by Maureen Macmillan, confirmed that view as well as the importance of eco-tourism.

**Maureen Macmillan (Highlands and Islands) (Lab):** Does Sylvia Jackson agree that, in addition to the growing importance of eco-tourism to the economy of rural and Highlands Scotland, the perception and actuality that Scotland cares for its natural environment is a strong marketing point for Scottish produce, as that helps to create premiums on that produce? If so, that means that the environment plays a caring part in the rural economy.

**Dr Jackson:** That is a good point. I plan to talk about salmon later.

In terms of Scottish tourism, Scotland's nature, our natural heritage, and its protection and promotion, are paramount. I speak as one of the members of the cross-party group that presented RSPB Scotland's petition to the Public Petitions Committee in support of "The Nature of Scotland". The petition's 10,000 signatures make it one of the biggest petitions ever submitted in support of Government policy. As the minister said, the response to the consultation process was extremely supportive. The Executive received 225 responses, virtually all of them in support of the proposals in the document.

Why do we need urgent reform? Some points have already been well made by Nora Radcliffe. First, we need it to stop the present persecution of birds of prey, as that continues unabated. More than half the 284 cases of alleged wildlife crime that were reported to RSPB Scotland last year involved birds of prey. England and Wales now has reformed and strengthened wildlife legislation. That has led to sentences such as the three-month prison sentence given to an egg collector by a Liverpool magistrate. Concerned groups, such as the Scottish Raptor Study Groups, fear that egg collectors will come from south of the border to Scotland, as they will find Scotland with its more lax laws an even more attractive target for their activities. As Nora Radcliffe outlined, fines seem to have little effect. I welcome the minister's comments on that point.

Secondly, there is urgent need for reform because, due to neglect or mismanagement, SSSIs continue to deteriorate. As many members have mentioned, a new system is needed.

**Fiona McLeod:** Will the member take an intervention?

**Dr Jackson:** No, as my time is short.

Three points have been raised by the Scottish Wildlife Trust. First, the process of biodiversity action planning needs to be recognised in law. Much work has been done locally, including in Stirling, to develop local biodiversity action plans. BAPs provide an opportunity for community action and ownership and for an approach to be taken that looks at the community as a whole.

**The Deputy Presiding Officer:** I ask the member to wind up.

**Dr Jackson:** Secondly, there needs to be a formal recognition of the 3,500 wildlife sites that are recognised by local authorities. A strong argument can be made that local authorities should maintain those sites. Thirdly, as was mentioned by the minister, the bill should address the process of designating marine sites.

In these debates, time is always short, but in summing up I would like to mention that none of the matters that we are debating exists in isolation. Agricultural policy is a key determinant. We have debated the importance of the funding for organic farming and for the rural stewardship scheme, which need to be run separately.

There is also the issue of pollution—

**The Deputy Presiding Officer:** The member must come to a close.

**Dr Jackson:** I am particularly pleased that the Transport and the Environment Committee is looking at pollution, with particular regard to fish farming.

Finally, there is a need for cross-department working at the level of the Scottish Parliament.

11:46

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** There is no doubt that we all agree about the objectives that are contained in the Executive document. However, as Nora Radcliffe and Sylvia Jackson said, there is a desperate need for those objectives to be implemented.

The SNP does not disagree with the sentiments that Nora Radcliffe and Sylvia Jackson expressed. Wildlife criminals need to be subject to far more serious sentences. That is the point of the document, and that is what Peter Peacock and Sam Galbraith professed they would do in March. However, when they said that they would introduce legislation, they did not say, "Oh, by the way, we won't actually bring forward legislation until some time after the next election."

The central problem that the Executive faces today is that it has backtracked on the issue. The Executive cannot find time in its legislative programme for a matter that is of grave concern to almost all back benchers in the Executive parties. Members have already heard two of them arguing for legislation to be introduced. However, when I intervened during the minister's speech, she manifestly failed to put any time scale on the introduction of legislation.

The Executive motion is vacuous, nebulous and unclear. Its purpose is clear—it is to let the

Executive off the hook. The Executive plans to do nothing until after the election. The purpose of the Parliament is to hold the Executive to account and, such is the feeling on the back benches, I do not think that it will get away with that. I wait with interest to see whether Sylvia Jackson and Nora Radcliffe will support the Executive motion.

The minister said that the system of SSSIs has served Scotland well. That is not what is said in the document: at page 63, a whole variety of flaws is set out. I agree with that part of the document—the system is flawed. However, what does the document propose? It proposes a new duty to be imposed on SNH. There is nothing new about the proposal, as it appears in the Natural Heritage (Scotland) Act 1991—the act that set up SNH. The act states:

“it shall be the duty of SNH in exercising its functions to take account as may be appropriate in the circumstances of ... the interests of local communities.”

Ten years on, the Executive is choosing to ignore the fact that SNH has, in some cases, not observed its duty to take account of the interests of local communities. Under section 3(1)(c) of the act, SNH has to take account of

“the need for social and economic development”.

Under section 3(1)(b), it needs to take account of

“the needs of agriculture, fisheries and forestry”,

and under section 3(1)(e), it needs to take account of

“the interests of owners and occupiers of land”.

That has not happened. Indeed, in my constituency, that has not happened big style. I have to put it to the ministers that the designation of areas including Loch Sunart, Arran, Islay and various areas in Badenoch and Strathspey has gone ahead because SNH wanted it to go ahead. SNH paid little or no regard to the views of local communities, yet it had a duty to take them into account.

That fact is well known in my constituency. What is not well known is that that legislation also gives ministers the right to give directions to SNH, just as is done with the Scottish Qualifications Agency. That power has not been used.

**The Deputy Presiding Officer:** I ask the member to wind up.

**Fergus Ewing:** The Executive has not brought this quango to account. One of the reasons why the Parliament was created was to bring quangos to account. Many people believe that SNH—or at least its top management—stands not for Scottish Natural Heritage but for See No People. [MEMBERS: “That is SNP.”] Nothing in the document will give succour to those people.

11:50

**Alex Johnstone (North-East Scotland) (Con):** The tradition of interest in Scotland’s natural heritage has its origins in the farming community. It is no surprise that three farmers are speaking for the Conservatives today. That traditional link between the farming community and our natural heritage goes right back to Robert Burns and many of the other great authors of previous centuries.

**Maureen Macmillan:** Will the member give way?

**Alex Johnstone:** Unfortunately, three minutes gives me no time to take interventions.

It is that tradition that I wanted to highlight. There are those, even in my own party, who believe that it is something of a mistake for the minister who is responsible for agriculture to have responsibility for Scotland’s natural heritage. When the minister was appointed, I was the first to welcome the fact that the two roles had been combined. That is a personal view and not necessarily that of my party. However, that combination of poacher and gamekeeper, so to speak, takes two of the biggest issues in Scotland today and puts them in the hands of the same man in the same department.

Ross Finnie finds himself between the proverbial rock and a hard place. He has to find a way forward that deals with the requirement to maintain Scotland’s natural heritage and to take into account the social and economic interests of those who live in conjunction with or very much on Scotland’s natural heritage.

We have heard from the proposer of our amendment, John Scott, that that is the gist of our amendment. We believe that the Executive’s policies are fundamentally sound and that its aspirations are worthy of pursuit. However, we wish, through our amendment, to ensure that the interests of those who live in rural Scotland—the landowners, land occupiers and land managers, and the communities that depend on them—will be properly and adequately recognised through that structure.

We in Scotland have serious concerns about the level of population of many of our species. Unfortunately, those who sit on the benches behind the Executive do not necessarily agree with its policies. Too often, members of the Parliament have tried to represent the interests of deer, seals, foxes and raptors at the expense of the people who suffer the consequences of their actions. In a debate earlier this year, the fox—well known as a wily and intelligent creature—outwitted 84 out of 129 MSPs.

11:53

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

When it comes to protecting our natural heritage, Scotland badly lags behind England and Wales. We are 50 years behind on national parks. It is to the credit of the Scottish Executive that it has moved as fast as it has and made the designation of two national parks a top priority. We are the country that produced the man who invented the concept of national parks, yet we are one of the last countries to designate any.

The fact that legislation on wildlife crime is much stronger down south has been alluded to. We must follow England and Wales on that as soon as possible. There is also the issue of SSSIs, and of national scenic areas—our equivalent of areas of outstanding natural beauty down south. The top priority and a matter of urgency must be legislation to bring us into line with England and Wales on wildlife crime. The passing of the Countryside and Rights of Way Act 2000 made provision for custodial sentences; I understand that the first one has just been handed out. I also understand, from SNH, that all that is required is a simple, straightforward bill of around three to four sections. If the Scottish Executive is to maintain its excellent track record of moving to protect our unique natural heritage, there is no excuse for not introducing legislation in the next parliamentary year at the latest. I hope that the minister can give us an assurance on that point when he winds up. "As soon as possible" is far too vague.

We need a second bill, to cover, among other things, SSSIs and national scenic areas. As far as SSSIs are concerned, it is almost too late. We needed such a bill five years ago. We need a proper definition and perhaps even a new designation. SSSIs were originally introduced to cover small sites in the lowlands of England, not huge areas such as the Tweed basin, which incorporates 800 landowners. We certainly need to improve the decision-making processes. At the moment, SNH gathers the scientific evidence and says that much of it is unreliable. We need to provide the resources so that the scientific data are more comprehensive and reliable. The Executive currently takes the decisions, but we need wider consultation and—as Nora Radcliffe mentioned—provision for a review to include global warming, which might lead to a change in certain species' habitats.

National scenic areas need to be given statutory provision. My constituency at Westminster included the Clwydian range, which was designated an area of outstanding natural beauty, the equivalent of national scenic areas. How valuable is that designation? I saw the value of it, and it is potentially important for Scotland too, for areas such as highland Perthshire, which finds

itself wedged between the two national parks that have so far been designated: the Cairngorms and Loch Lomond and the Trossachs. It is also a potential designation for the Angus glens, if they are not included in the Cairngorms national park.

I commend the UK Labour Government since 1997 and the Scottish Executive since 1999 for moving so rapidly and making up for the lost decades of the 1980s and 1990s. The previous Conservative Government did nothing. Its record on protecting our natural heritage was lamentable to the point of disgrace. Unlike the Scottish Liberal Democrats but like the Tories, the SNP failed to mention wildlife crime in its 1999 manifesto. We welcome SNP members' belated display of interest and concern, but they will not be surprised if we view their indignation today as somewhat synthetic, let alone hypocritical.

11:57

**Robin Harper (Lothians) (Green):** I welcome the Executive's commitment to introduce legislation, but I would like the minister to define precisely what she means by "as soon as possible". There is widespread support for the implementation of the proposals outlined in the Executive's "The Nature of Scotland" paper. If external experts and members of the Transport and the Environment Committee and the Rural Development Committee started working with Executive civil servants on preparing a preliminary draft of the bill, it would be a new way of working and a real opportunity to implement new politics.

While the proposals in "The Nature of Scotland" are commendable, they provide only a part of what is needed to protect Scotland's natural heritage. Nora Radcliffe spoke about local biodiversity action plans and used the political term "majority" to describe how the local authorities are getting on with them. That disguises the very real fact that just under half of local authorities are nowhere near completing their biodiversity action plans. That is a strong argument for making it a statutory duty on local authorities to complete them, and even a statutory duty to sustain local biodiversity action plans once they have been prepared.

I am sad that, judging by the rural development plan and the minister's introduction today, the Executive still fails to recognise the contribution that organic farming could make to our environment and to Scotland's marketing in Europe. Yesterday, the UK Climate Impacts Programme published a report entitled "Climate Change and Nature Conservation in Britain and Ireland", in which it said that it was likely that animal and plant species in Scotland, including the capercaillie and the red-throated diver, would die out as a result of climate change. Nora Radcliffe also mentioned that.

The long-term future of Scotland's natural heritage depends not only on specific wildlife policies but on Government policy right across the board. That is why we need a dedicated environment minister in Scotland. The concept of sustainable development needs to be elevated to have an impact throughout the Executive. That was pointed out in the independent report prepared by Tim Birley for the World Wide Fund for Nature for our education and enlightenment.

There is now an opportunity—I hope that the new First Minister or those in the new Cabinet are listening—for the post of dedicated minister for the environment to be reinstated. Furthermore, the Executive could recognise the importance of environmentally sustainable development, and could give the ministerial group on sustainability in Scotland and the sustainable development unit a place at the heart of Government policy making. In addition, I would like a commitment from Rhona Brankin that she will suggest that the First Minister go to the global environment talks in Johannesburg next year. Those talks are too important for the future of Scotland's natural heritage to leave to our colleagues south of the border.

There is much to commend in the SNP amendment. My amendment, which covered similar ground, was not selected. However, the SNP's concern for Scotland's natural heritage might be all the more credible if it were to review its policies against increasing duties on fuel.

12:00

**Rhoda Grant (Highlands and Islands) (Lab):** It is extremely important that we safeguard our natural heritage, not only because, once lost, it can never be replaced, but because of the benefit that we can gain from environmental tourism. To promote environmental tourism in Scotland, we must provide a landscape and wildlife that will attract tourists, but we also need to provide the facilities to enable them to come back. To protect our natural heritage, we need to take with us the people who live and work on the land.

There is always tension between those who have cared for our natural heritage through the generations and the public bodies that give the impression that that work has no value. Decision makers sometimes appear remote from the areas that they look after. That is why I and my colleague Maureen Macmillan have written to Angus MacKay asking him to review the base of Scottish Natural Heritage. It is my belief that, if that agency were based in the Highlands, decision makers would gain a more in-depth knowledge of the areas that they cover. Large parts of the Highlands are covered by SSSIs and some people who work the land are frustrated by regulation.

Easy access to SNH would alleviate some of those communication problems and encourage partnership working.

We must also examine ways of encouraging a proactive role by those who work the land. At present, people are paid large amounts of money to do nothing. I am glad that the minister has addressed that point. We all know of practices that can enhance our natural heritage and we should contract with those who work on the land to carry out those practices and should provide financial help to enable them to do so. That would make a lot more sense than paying someone to do nothing. People who work on the land must also be involved in drawing up the contract, and must have their expertise put to full use.

The minister mentioned marine conservation, and I commend to her the work of the Moray Firth Partnership. It has worked with local communities throughout the Moray firth area and is doing much to conserve the local area and the dolphins that live there and which are a huge tourist attraction.

To protect our natural heritage, we need to involve local people, who must be at the heart of our policies. We know the value of natural heritage to our people, and local people are the natural protectors of that heritage. We must be able to support them. If we all work together, we will achieve the protection and promotion of our natural heritage.

12:03

**Richard Lochhead (North-East Scotland) (SNP):** The only interesting point in Alex Johnstone's speech was his mention of Robert Burns. That brings me to the subject of the humble haggis, which may be part of our natural heritage. Any members who have been following local papers in the north-east will have noticed that professional tourism signs have been put up at Oyne in Aberdeenshire warning of a haggis crossing and a haggis sanctuary.

Turning away from haggis, I want to talk about the freshwater and marine environment, which is an important part of our natural heritage. I shall begin with freshwater fisheries in our rivers in Scotland. Members may remember how the Executive was dragged kicking and screaming to introduce the Salmon Conservation (Scotland) Act 2001 after international protests against the Government's record and reaction to low catch figures in our salmon rivers. That is symptomatic of the Government's approach. It has to be dragged kicking and screaming to introduce relevant legislation.

The debate on the freshwater fisheries sector now continues about the transfer of non-native species between river catchments and about



importing non-native species into Scotland from elsewhere. That debate is currently raging among environmentalists and the angling community. People want it sorted out and they want legislation introduced as soon as possible.

I welcome the fact that all those issues are mentioned in the Government's proposals, but there is no timetable. When will we actually see the legislation? Action on those issues is long overdue, but we face the prospect of waiting even more years before any new laws can be put on the statute book. The implications of not protecting our fish stocks from genetic imbalance or diseases are huge. We need that legislation, and we need it soon.

On the subject of genetic imbalance in fish stocks and the spread of disease, there is a crying need for an independent inquiry into sea cage fish farming. That concept was supported by a majority of parties in the Parliament, by parliamentary committees, by the salmon farming industry, by the angling community and by environmental organisations. If the Government were taking the matter seriously, surely it would have accepted the strong and unassailable case for that inquiry. But, oh no, the minister chose to be isolated once again, took on the whole united front and would not go down the sensible route of protecting, or at least ascertaining what is behind the decline of, freshwater fish stocks, particularly in north-west Scotland, and what is the right way forward for the relationship between sea cage fish farming and the environment.

On the marine environment, new discoveries are being made all the time in Scottish waters. I pay tribute to the University of Aberdeen's Oceanlab, which recently opened in Newburgh, Aberdeenshire. I encourage the minister to visit Oceanlab, which is now investigating the world's ocean floors, as well as those around Scotland, and is discovering new species all the time. That shows just how great Scotland's natural environment is. I also congratulate the oil industry, which has made progress in recent years in protecting the environment.

We want a sustainable fishery in our oceans. The minister alluded to that in her opening remarks. We have to tackle industrial fishing as part of the common fisheries policy negotiations if we are to protect our fishing stocks and the marine environment. It is extremely important that we achieve those objectives.

When people around the world think of Scotland, they tend to think of our natural environment. We have to protect that environment as a matter of urgency, not just for tourism and for the economy but because we have a responsibility to the environment and to the rest of the world to do so.

**The Deputy Presiding Officer:** I am trying to accommodate all the members who want to speak in the debate, so it would be helpful if the last three speakers could stick strictly to the three-minute time limit.

12:07

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** This morning, we have heard from many members about their interest in the natural heritage of our countryside. I too want to protect and promote Scotland's natural heritage, which has been handed down to us by our forefathers, in whose keeping it was cared for and nurtured in a natural and responsible manner to the extent that today our countryside, our wildlife and our flora and fauna are the envy of our national and international neighbours who, I am sorry to say, have forfeited much of their natural surroundings to the commercial onslaught of bricks and mortar.

We must ensure that any new legislative proposals do not impose further restrictions. It is often felt that there is gross over-regulation as it is. SSSIs, SACs and other designations are imposed on land and marine sites when the justification is highly questionable. Designation is frequently inappropriate. In my area, a marine designation has been placed on Loch Duich, Loch Alsh and Loch Long. In spite of the best efforts of the local community to determine what is being protected or why the sites should be designated, we have had no information.

The current system of designation is quite unacceptable. It is inefficient and it is always controversial. We must adopt a more positive management framework and direct more emphasis and focus towards incentives rather than restrictions. I suggest that earlier and continuing consultation with affected communities and landowners would be a welcome step forward.

We should also exercise more control over the many statutory bodies, charities and other organisations that seem to control and regulate our countryside. Their aims and objectives are always channelled through the guise of a single issue and they are always oblivious to the other views and aspirations of local communities.

Scotland's natural heritage and environment has been protected and preserved by generations of people living and working in the countryside. We must ensure that, through genuine dialogue and consultation with people who have a genuine interest in the control and management of the countryside, we can secure their co-operation and have the opportunity to preserve a vibrant and viable heritage and environment and present it to the generations that follow us. That is our duty, and it is what I recommend.

12:11

**Roseanna Cunningham (Perth) (SNP):** I have put so many big lines through my speech I might need fewer than three minutes.

To begin with, I want to make one or two comments about access issues, which I know are not within the minister's remit. Earlier this year, foot-and-mouth disease caused huge problems in rural areas. When the notices went up in the countryside, the tourists—whether they were day trippers, weekenders or visitors who were staying longer—stopped coming. Access is absolutely crucial to Scottish tourism. I have already expressed concerns about delays in introducing access proposals as part of the land reform bill and about how they will be handled in the bill. If we do not see those proposals soon, I will renew my call to split the issue off into separate legislation. However, since the Parliament should be about joined-up thinking, I ask the minister to put pressure on her justice colleagues to introduce the land reform bill as quickly as possible, as it is partly key to some of the issues that we are discussing.

The Executive's policy statement in March contained a lot of fine words and a higher than usual standard of art work, but wildlife professionals and the public clearly want more than that. We want some action. As people have said—and as I say again—until this month, the Executive had given no indication about when it intended to proceed with the wildlife crime legislation. In one of his last appearances at First Minister's question time, the ex-First Minister said that a draft bill will be published "as soon as possible". I note that the same phrase has been repeated again today. It is not good enough; the phrase "as soon as possible" does not tell us anything.

Green tourism is a fast-expanding sector of Scotland's most important industry. Despite the foot-and-mouth outbreak, which had a catastrophic effect on my constituency, the great outdoors is still by far Scotland's biggest visitor attraction. A recent report discovered that it supports 180,000 tourism-related jobs and contributes £2.6 billion to the Scottish economy.

I have already stated why people come to the countryside: they come because they care about Scotland and what it looks like, and to see things that they might not otherwise see. For example, the image of the golden eagle is used around the world to attract visitors to our country, but last year alone three golden eagles were illegally poisoned and there are now only 420 breeding pairs in the whole country. It is not just the golden eagle. Eleven of our country's species of breeding raptor are an official conservation concern of the RSPB. That organisation has provided me with a list of

the poisonings so far this year; it is distressing to tell the chamber that three of them have happened in my constituency. I also note that one of the bad-news case studies in "The Nature of Scotland" relates to a poisoning in west Perthshire.

It is a tragedy. Indeed, those figures might be under-representative because under-reporting undoubtedly happens. Furthermore, the comparison between Scotland and New Zealand makes very sad reading. Someone in New Zealand was jailed for nine months for being caught with 32 eggs; in Scotland, people do not receive such sentences. We need to follow New Zealand's example, to get moving on the issue and to get it into practice now.

12:14

**Dennis Canavan (Falkirk West):** I listened with interest to John Scott's comments about SSSIs. I can well understand why there is a proposal to designate John's land as such a site: it is the habitat of a very rare species indeed—a Tory MSP who represents a Scottish constituency.

The Executive motion refers to

"legislative proposals to protect and promote Scotland's natural heritage".

Like Roseanna Cunningham, I want to confine most of my remarks to one legislative proposal in particular—the right of access to the countryside. Such access is an important part of Scotland's natural heritage.

Earlier this year, the Executive published a draft land reform bill that was supposed to ensure a statutory right of responsible access to the countryside. The part of the draft bill that dealt with access was a big disappointment to many people, especially ramblers, hillwalkers and mountaineers.

I understand that the Executive received about 3,500 responses to the draft bill. I have not had enough time to analyse them all, but my researcher has looked through about 500 of them. Around 90 per cent of respondents raised concerns about access and more than three quarters said that the draft bill is too restrictive and provides less right of access than currently exists. Similar views were expressed in a petition signed by 17,000 people. On the basis of the number of signatories, it is one of the largest petitions so far presented to the Parliament.

The draft bill would provide for exclusion orders to stop access to the countryside and give the police power to arrest anyone in breach of an exclusion order. Walkers could find themselves branded as criminals and landowners would have the right to suspend access. Some landowners want to ban access at night time, which would make it impossible for people to camp overnight.

Many hillwalkers, ramblers, scouts, members of the Boys Brigade and young people who do adventure training enjoy such camping. Experienced hillwalkers do not understand why the draft bill did not follow the agreed conclusions of the Scottish access forum. That point was also made by the Mountaineering Council of Scotland.

Many ramblers and hillwalkers feel that the draft bill is worse than the status quo. Some go further and say that if the redraft of the bill is not a vast improvement on the original draft, the Scottish Executive would be better to drop the section that deals with access. It would be a great pity to miss a golden opportunity to ensure a genuine right of access to the countryside.

Scotland is blessed with some of the finest countryside in the world. The mountains, glens, rivers and lochs of Scotland are not simply the property of the landed gentry, they are part of our natural and national heritage and should be accessible for people to enjoy. It is up to the Executive to ensure that the right of access is enshrined in statute.

**The Deputy Presiding Officer:** That ends the open debate. I thank members for their co-operation, Mr Harper in particular. He delivered a six-minute speech in about three minutes.

12:18

**Dr Elaine Murray (Dumfries) (Lab):** During the summer, I was asked to stand in for the Deputy Minister for Environment and Rural Development at short notice to perform a most unusual and enjoyable parliamentary duty: I had to release some red kites into the wild from a secret location in Dumfries and Galloway in the hope that the species might again become established in the south of Scotland, as it has in the Highlands.

The red kite is a large raptor. It can predate small mammals, birds and amphibians, but it is primarily a scavenger. Due to ignorance of its behaviour, it was persecuted to the point of extinction in England, Scotland and most of Wales by the end of the 19<sup>th</sup> century.

The event that I attended was extraordinary. There was high security and we had to creep through the forest to the cages. Releasing the huge and spectacular young creatures and seeing them gradually, one by one, plucking up the courage to fly from their cage and sweep up to the high trees to look at their colleagues' progress was moving. It was not only a symbol of hope for the species: in some ways it was also a symbol of hope for Dumfries and Galloway. Earlier in the year, we felt that we were almost at the point of extinction ourselves.

Members can imagine my wrath when I discovered that, two months later, one of those

fine creatures had been found poisoned. I do not know whether it was poisoned deliberately or by the reckless use of poisons for other purposes.

I welcome the proposals—they have been welcomed throughout the chamber—to tighten up the law on reckless behaviour and on the intentional behaviour that results in wild birds being injured, killed or disturbed. I ask SNP members—particularly the Mr Angrys who feel that if they agree with the Executive they must sound cross about doing so—what could be sooner than “as soon as possible”? Do they want us to say “as soon as not possible”?

The minister referred to SSSIs, a designation that has been in use since 1949. There has been some criticism of SSSIs, particularly of the fact that people who work on the land in an SSSI are given long lists of potentially damaging operations that they must avoid and on which they must go to SNH to seek its views. Rhoda Grant referred to the fact that landowners are sometimes paid for not doing things that might damage the SSSI, even though they may not have intended to do those things anyway. It is also true that designation as an SSSI does not always provide the optimum protection for conservation sites. I think that Keith Raffan made some reference to that.

**Fergus Ewing:** SNH has stated that recorded damage to SSSIs in Scotland affects only 5,000 hectares, whereas a total of nearly 1 million hectares are designated as SSSIs. Only 0.5 per cent of SSSIs have been damaged. Why is more “effective protection” required?

**Dr Murray:** The legislation has to be more reflective of people's views. Fergus Ewing does not disagree with the Executive's proposal to strengthen the role of local authorities and communities in defining an SSSI or with the proposal to consult and provide independent scientific advice to those stakeholders. Everyone welcomes those proposals.

As Rhoda Grant, Sylvia Jackson and others have said, Scotland's natural heritage is one of our greatest assets and the Scottish Parliament has a duty to protect and preserve it. I believe that the whole chamber welcomes the Executive's proposals, however much people may whinge and carp about timetables or the level of detail in the proposals, as the Tories have done. One would expect the detail about issues relating to communities and so on to be in the bill and the associated memorandums, not in the proposals.

I thank Fergus Ewing for his explanation of the acronym “SNP” and wonder whether he is suggesting that, in the unlikely event of an SNP electoral success, a programme of mass emigration from Scotland would take place.

12:23

**Mr Jamie McGrigor (Highlands and Islands)**

**(Con):** I associate my party with Rhona Brankin's opening remarks. However, while I welcome the Executive's desire to protect and promote Scotland's wildlife I must, as a representative of the Highlands and Islands, voice the concerns of the people who live in the area where a great deal of that wildlife is present. I cannot fail to voice their disappointment about the lack of consultation between bodies such as SNH and the local population when it comes to making designations of SACs and SSSIs.

The agitation came to light recently in a meeting in Perth called "People: the Forgotten Species". The title adequately sums up many people's frustrations. The main aim must surely be to protect and promote rural communities and the people who will maintain the environment and the natural heritage, who will continue to live in the glens and islands of the north and west of Scotland despite the present difficulties and who will act as stewards of the landscape and wildlife as has happened for centuries.

There is a strong impression that proper consultation is not taking place with the very people whose lives will be affected by the measures that will be introduced. For example, those affected by the Loch Sunart SSSI, the Sound of Barra SAC and the proposed Islay seal sanctuary include farmers, crofters, fish farmers, shellfish farmers, clam divers and winkle pickers—to name but a few—but none of those people have any idea of how the designations will affect their daily lives. No wonder they are upset. This is happening because different people interpret the word "consultation" differently.

Ordinary people believe that consultation means substantial discussion and debate on the pros and cons of an issue before that issue becomes a reality that affects places and, above all, the people who live in them. The feeling is that SNH's so-called consultations amount to explanations of designations that, in some cases, have been made without prior consultation on the pros and cons of the measures.

That, not surprisingly, infuriates many people, who feel that they are being trodden on and forgotten in a mad race to fulfil a Europe-driven agenda on time. They are not necessarily against the agenda, which might bring benefits, but they are astonished and aghast that their views, which, after all, benefit from local knowledge and practical experience, are not being listened to in the first instance.

For example, I recently received a copy of a letter from a constituent from Ardnamurchan to John Markland, the chairman of SNH. I quote:

"one of the major problems which needs to be overcome prior to any joint understanding is the lack of confidence which a significant majority of the people in this area have for SNH staff. It is universally perceived that SNH staff will say one thing at a meeting in order to reach agreement, and will then not abide by that which was understood to have been agreed."

That does not bode well for the future of our heritage, which depends on the co-operation and enthusiasm of local people to make it work. Although some of SNH's incentives are successful, such as the excellent Lewis peatland management scheme, others are perceived to be against the interests of local people, who must be able to earn a dignified living unhindered by the whims of any great improvers with a distant intellectual agenda.

For instance, the people of south Knapdale in Argyll are about to be subjected to an introduction of European beavers to an area of Forestry Commission land. The idea was originally turned down by the west areas board of SNH, which covered Argyll, but for some reason that decision was overruled by SNH's main board. There is irrefutable evidence from Norway that beavers do a lot of damage to young woodlands and to fisheries. Many farmers in Scotland receive payments of public money for countryside premium schemes, one of the main priorities of which is the encouragement of water margins to allow trees to grow on the banks of rivers and streams to improve the spawning grounds for fisheries. The introduction of beavers means that those trees will be munched up. That seems to me to be a case of the right hand not knowing what the left hand is doing—or certainly not knowing what the beaver is doing.

**The Deputy Presiding Officer:** Wind up, please.

**Mr McGrigor:** What happens if the beavers escape from their so-called enclosed area? Will they create the havoc that escaped mink have already caused after being introduced to Scotland, or that the coypu caused after being introduced to East Anglia?

I have met and listened to several local residents who are against the trial. I have yet to meet anyone who wants beavers in Knapdale.

**The Deputy Presiding Officer:** Come to a close, please.

**Mr McGrigor:** I beg your pardon?

**The Deputy Presiding Officer:** Come to a close, please.

**Mr McGrigor:** I beg your pardon.

Why persist with an unpopular idea when the £500,000 that it will cost could be equally well spent facilitating the watching of the local otter

population or the local wild red deer and roe deer populations or improving the local fisheries, which are already major assets of Scotland's heritage?

I make a plea to the Scottish Executive to follow the words of John Scott's amendment and build on the expertise of the past to bring about an improved future environment in which people and nature can live in harmony and sustainable co-existence.

12:29

**Fiona McLeod (West of Scotland) (SNP):** There is a famous phrase in America: "Where's the beef?" The recurrent phrase for today's debate is "Where's the bill?" It is not good enough for the deputy minister to say three times that the Executive will introduce a bill as soon as possible. Can she define "as soon as possible"? It could mean "as long as we can get away with doing nothing". That is what it sounds like today. It does not sound like that to members alone, it sounds like that to the enormous part of the population of Scotland that cares passionately about the nature of Scotland.

The land reform bill is brought to my mind. In 1999, we were promised that bill as soon as possible. I understand from my colleagues in the SNP justice team that no bill has yet been introduced in 2001. Is the "as soon as possible" for the bill on the protection and promotion of Scotland's natural heritage as good as the land reform bill "as soon as possible"? It is not good enough to leave legislation to a member's bill. In response to my intervention, Nora Radcliffe said that if the Executive does not provide a legislative timetable she will go ahead with her member's bill to ensure that wildlife legislation is updated during this session of Parliament. I must tell the minister that that is not good enough. It is not for a member to introduce much-needed legislation. Ministers are supposed to be a Government. Do it. Govern.

The Parliament is here to pass laws. I have to say that the minister's opening remarks were more like story time in Parliament: she simply read out "The Nature of Scotland"—a lovely document with pictures. As a librarian, I enjoy story time; as an MSP, I expect to see a legislative timetable in front of me.

In "The Nature of Scotland", the Executive makes 41 commitments. One says that all

"Scottish Ministers should have a specific duty to have regard to the conservation of biological diversity".

There is a specific duty to have regard. If we do not have a minister who introduces legislation to ensure that we have wildlife protection and updated SSSIs, the Executive's regard is like a blind man. If the Executive's regard for biodiversity is the same as its regard for sustainable

development, we have no chance of protecting the nature of Scotland.

I have been involved with three bills in the Parliament—the Standards in Scotland's Schools Bill, the Transport (Scotland) Bill and the current Water Industry (Scotland) Bill. On each of them, members of the Opposition have had to make statements and lodge amendments on sustainable development—and each time Labour back benchers have defeated those amendments. That is not good enough. We have to ensure that legislation to protect the wildlife of Scotland is in place.

**The Minister for Environment and Rural Development (Ross Finnie):** Will the member confirm that at yesterday's meeting of the Transport and the Environment Committee, at which the Water Industry (Scotland) Bill was discussed, we discussed the section of that bill that places an obligation on the water industry to have regard to sustainable development? The member did not produce that bill; the Executive produced it.

**Fiona McLeod:** The Executive also produced section 47(5), which is the get-out clause. It says quite clearly that sustainable development is at the bottom of the list of priorities for Scottish Water.

**Ross Finnie:** That is a lie. That is an absolute outrage.

**The Deputy Presiding Officer:** Order.

**Fiona McLeod:** If Mr Finnie is so outraged, perhaps he could produce a timetable for legislation in his closing speech. His outrage would then be justified.

I turn finally to page 45 of "The Nature of Scotland". The Government of which the minister is a member says:

"The management and protection of Scotland's natural heritage is, however, first and foremost dependent on the commitment of Scotland's people rather than on laws and policies."

What a get-out. We all accept that every individual and citizen has a commitment to the nature of Scotland, but it is not good enough for the Government to say that it is our responsibility, not theirs. They are the Government—govern.

**The Deputy Presiding Officer:** Before I call the minister, I ask members to respect the opportunity that is being given for members to speak by keeping down the background noise. I call Ross Finnie to wind up for the Executive.

12:37

**The Minister for Environment and Rural Development (Ross Finnie):** Today's debate has mainly shown that most people share the

Executive's conviction about Scotland's natural heritage. The difference appears to be a question of what to do, when to do it and how to do it. Bruce Crawford and most of the SNP were concerned. I think that Fiona McLeod's last statement was, "If you are going to govern, govern." Well, perhaps she has been away for a while, but we have been producing at the rate of 20 bills a year since we came into Parliament. If that is not governing, I am not sure what is. Indeed, I want to know, given Fiona McLeod's interest in the matter of government, which of those bills she would particularly like not to have.

The process of Parliament is to introduce discussion papers and to inform, advise and instruct on the final point of the bill. Fiona McLeod is also not aware that we have already consulted on agricultural holdings and crofting communities. Those elements also are involved in the question of how we get to legislation. We produced a paper in March. The SNP believes that in February, or indeed in September, October or November, there ought instantly to be legislation.

Now what have I done?

**Fiona McLeod:** Will the minister give way?

**Ross Finnie:** No. I will make one more point about a timetable.

When I became Minister for Environment and Rural Development, it was clear that work on producing a bill was not getting very far. Bruce Crawford asked me what I have done: I have accelerated the timetable for the production of the bill. Let there be no question about that. However, I cannot give a categorical timetable for its drafting at this point. Instructions have only recently been given and the bill is quite complex. There are various matters—for example, the need to improve SSSI and other designations, to which Fergus Ewing referred—that will require quite a bit of draftsmanship. We require the necessary drafting capacity. If members really believe that, with 23 bills already progressed, that capacity is infinite, they are wrong. It is sheer cant and hypocrisy to be critical in that regard.

As for having a minister in charge of the environment, we certainly have not delivered everything that we would wish to deliver, but since I acquired the environment portfolio—Mr Harper, who I think was reading the minutes of the ministerial group on sustainable Scotland, will agree on this at least—we have committed to doing what we had not previously committed to: to produce targets and measures and to extend the membership of the group to make it more inclusive.

**Fiona McLeod:** Minister—

**Ross Finnie:** No. Fiona McLeod made the

accusation and I am now responding to it. We are delivering on the national waste programme. We are doing more on floods. We have opened the flood helpline. We have committed £2 billion for environment-related investment in waste and water for 2002 to 2006.

I was asked about conflict of interest in agriculture. What is the conflict of interest in my funding a person to give advice to the agricultural community—not to be in conflict, but to deliver on environmental improvements? We also promoted the national goose forum. I am not suggesting that we have done everything, but I am telling SNP members that they are quite wrong to suggest that there has been no progress on environmental matters since I took over the portfolio.

I believe that John Scott illustrated an interesting position—although I did not hear it. Nor did I hear Jamie McGrigor. I am not quite clear what point he was pursuing. I did not, in any case, hear any real difference in principle on the forthcoming bill's provisions. I think that John Scott's point was one of emphasis. In common with a large number of other members, he expressed great concern and unease about the way in which designations come into place.

During the debate, I was becoming concerned about Scottish Natural Heritage, or SNH. That was until Fergus Ewing told me that SNH equalled SNP. Then I realised that even SNH could not be that bad.

**Fergus Ewing:** We always enjoy it when the minister plays the man, not the ball. Long may that continue.

I return to a serious point. The minister said that he has ordered the acceleration of production of the draft wildlife bill. Can he provide any timetable for when it will be produced?

**Ross Finnie:** I am glad that Fergus Ewing managed to conduct that question without the usual spelling error, which he managed earlier. I have made it clear that, in accelerating what we currently have, we are putting in place resources that were not previously in place, in the form of parliamentary draftsmen. As soon as they can indicate that time to me, I will provide a more precise timetable. I will give one. We have instructed parliamentary draftsmen and we have the resource of those parliamentary draftsmen to tackle the bill. We did not have that resource before. We are now making it available.

Rhoda Grant made an important point about extending the debate to marine conservation. That point was also made forcibly by Richard Lochhead.

I acknowledge the excellent work done by the Moray Firth Partnership. Visitors to its site have

the opportunity to observe the red kite after walking only a few yards.

It is important to extend the debate not just to haggis but, as Mr Lochhead rightly points out, to the very important area of marine conservation. He is wrong, however, to speak about dragging the Executive kicking and screaming. He uses that phrase time and again; he really must find a new one. It is an old phrase. It is also not true. In the Salmon Conservation (Scotland) Bill we were responding to the long and excellent report by Lord Nickson. The bill's provisions were required and they were introduced.

I want to touch briefly on access, which was raised by Roseanna Cunningham and Dennis Canavan. I have been in discussion with the Minister for Justice on this issue. Contrary to rumour, we are committed to ensuring that there is a right to responsible access. The bill providing that, which has proved extraordinarily difficult to draft, will be introduced. I understand that in the next few days the Deputy First Minister will make a statement on that bill.

Roseanna Cunningham and others made points about wildlife crime and the integration of access. This is about people as well as about legislation. As Robin Harper said, it is about the attitude that we as a society take to our wild species and to our countryside. The suggestion that the great mass of our population is lining up to tramp across the countryside and to tear it down is deplorable. It is an absolute nonsense. However, I understand some of the tensions that exist and to which reference has been made. There are tensions relating to designation and how we explain the reasons for it. We need to preserve our countryside and to have the mechanisms that will enable us to do so. There will be increased consultation and we will take land managers' concerns seriously.

I hope that we can move towards a more sustainable future for Scotland. Each of us must take responsibility for preserving and promoting our natural heritage. That must be linked to the other actions that are being taken by individuals and organisations. We must conserve natural resources, promote access to our shared natural heritage and make sustainable economic development a reality.

Scotland has a rich natural heritage. We owe it to ourselves and to future generations to protect and promote it. I believe that by pursuing the approach that we have outlined today we can make that happen.

## Parliamentary Bureau Motions

12:43

**The Deputy Presiding Officer (Patricia Ferguson):** The next item of business is consideration of Parliamentary Bureau motions. The first motion to be considered is motion S1M-2453, in the name of Mr Tom McCabe, on a change to decision time.

*Motion moved,*

That the Parliament agrees under Rule 11.2.4 of the Standing Orders that Decision Time on Thursday 22 November 2001 shall begin at 12.30 pm.—[*Euan Robson.*]

*Motion agreed to.*

**The Deputy Presiding Officer:** The second motion to be considered is motion S1M-2452, in the name of Mr Tom McCabe, on a suspension of standing orders.

*Motion moved,*

That the Parliament agrees that Rule 5.6.1(c) of the Standing Orders be suspended for the duration of the Meeting of the Parliament on Thursday 22 November 2001.—[*Euan Robson.*]

*Motion agreed to.*

## Business Motion

12:43

**The Deputy Presiding Officer (Patricia Ferguson):** The next motion for consideration is business motion S1M-2451, in the name of Mr Tom McCabe.

*Motion moved,*

That the Parliament agrees the following programme of business—

Wednesday 21 November 2001

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Stage 1 Debate on the Sexual Offences (Procedure and Evidence) (Scotland) Bill

*followed by* Financial Resolution in respect of the Sexual Offences (Procedure and Evidence) (Scotland) Bill

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business - debate on the subject of S1M-2081 Mr John Home Robertson: Regulation of Opencast Mining in the Lothians

Thursday 22 November 2001

9.30 am Stage 1 Debate on the Scottish Local Government (Elections) Bill

*followed by* Financial Resolution in respect of the Scottish Local Government (Elections) Bill

*followed by* Executive Debate on the NHS Reform Health Care Professions Bill – UK Legislation

*followed by* Question Time

*followed by* First Minister's Question Time

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

12.30 pm Decision Time

*followed by* Members' Business - debate on the subject of S1M-2184 Alex Neil: Contract Research Staff

2.30 pm Selection of the Parliament's Nominee for First Minister

Wednesday 28 November 2001

12.00 noon Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* First Minister's Motion to appoint Scottish Ministers

*followed by* First Minister's Motion to appoint junior Scottish Ministers

2.30 pm Stage 1 Debate on the Community

Care and Health (Scotland) Bill

*followed by* Financial Resolution in respect of the Community Care and Health (Scotland) Bill

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 29 November 2001

9.30 am Scottish National Party Business

*followed by* Business Motion

2.30 pm Question Time

3.10 pm First Minister's Question Time

3.30 pm Executive Business

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

—[*Euan Robson.*]

12:44

**Fiona Hyslop (Lothians) (SNP):** I want to take this opportunity to reflect on the fact that the Parliament has lost a great deal of time and impetus because of the activities of Labour party politicians and their careers, past, present and future. When considering the parliamentary timetable, we must ensure that we do not lose any more time.

It is significant that on Thursday 22 November we will not lose question time and will be able to proceed with a great deal of business, but we are being forced to change our timetable so quickly because there is no contest within the Labour party for the nomination to the office of First Minister. There has been a backroom fix that means that next Thursday we will be faced with a coronation of sorts.

I resent the fact that, as a member of the Parliamentary Bureau, I have been placed in a situation in which I have had to be part of a backroom fix to bring forward a timetable to ensure that we have an election. We will not stand in the way of an election taking place, but we want to put on record our growing concern that Labour party machinations to get its machine politicians in place is disrupting the business of the Parliament. It must stop soon. We need to get on with our business. I shall not move against the motion, but I want to register our concerns.

12:45

**The Deputy Minister for Parliament (Euan Robson):** I am sure that anyone who wants to will note those comments. The changes have been made to minimise any disruption to parliamentary



business. The important Equal Opportunities Committee debate on the report of its inquiry into Gypsy/Travellers and public sector policies will be rescheduled as soon as possible. Other than that, there have been no major changes to the business.

*Motion agreed to.*

12:46

*Meeting adjourned.*

14:30

*On resuming—*

## Question Time

**The Deputy Presiding Officer (Mr George Reid):** The first item of business this afternoon is question time.

## SCOTTISH EXECUTIVE

### Inverness Airport

**1. Rhoda Grant (Highlands and Islands (Lab):** To ask the Scottish Executive what incentives Highlands and Islands Airports Ltd can offer to encourage provision of new services at Inverness airport. (S10-4076)

**The Deputy Minister for Transport and Planning (Lewis Macdonald):** HIAL offers substantial discounts to support the introduction of services at Inverness airport and elsewhere.

**Rhoda Grant:** Will the minister tell me what those discounts are and whether they are available to current operators? Furthermore, are they available to new low-cost operators? Finally, how do those discounts fit into the Executive's strategy to encourage air travel to and from the Highlands and Islands?

**Lewis Macdonald:** HIAL offers discounts over the first three years of a new service: in the first year, it offers a 75 per cent discount; in the second, 50 per cent; and in the third, 25 per cent. In comparison, British Airports Authority airports such as Aberdeen, Glasgow and Edinburgh offer 50 per cent, 30 per cent and 10 per cent discounts over three years. It is clear that HIAL offers generous discounts, which have helped to attract low-cost operators such as Easyjet and ScotAirways to Inverness. The same discounts would be available to any other operator that wished to provide a service from that airport.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** Does the minister agree that it is widely accepted that it takes three years to establish any new route? The real problem with Inverness airport is that its usual landing charges are on average, 30 per cent higher than charges elsewhere in Scotland, which seriously disadvantages Inverness airport's competitive ability to attract new and secure routes.

**Lewis Macdonald:** As I explained, Inverness airport's discounts compare well with those that are offered at lowland airports. That said, the fact that it takes three years to establish a commercial service is precisely the reason why HIAL offers a three-year discount programme. We are

encouraging any operator that believes that it can start a service from Inverness airport to put its money where its mouth is and submit a proposal, which will then be discussed with HIAL.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** In the light of recent events that have opened more slots at Heathrow airport, will the Scottish Executive use its influence to press for landing slots for Inverness traffic at both Heathrow and Gatwick?

**Lewis Macdonald:** No. If Jamie McGrigor had taken on board the points that I made when we debated the subject the other day in Parliament, he would understand that our case for a public service obligation to protect slots at Gatwick rests on the presumption and argument that we need the Inverness to Gatwick route to sustain the economy of and tourism in the Highlands and Islands. Arguments about slots that do not exist and that do not currently provide a service would be a complete distraction from the case that the Scottish Executive, Highland Council and Highlands and Islands Enterprise are making jointly to the Department for Transport, Local Government and the Regions.

### Railtrack

**2. Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** To ask the Scottish Executive what impact Railtrack plc going into administration will have on planned joint capital projects with public and private sector organisations. (S10-4086)

**The Minister for Transport and Planning (Sarah Boyack):** Before going into administration, Railtrack indicated that many projects throughout the UK would be put on hold, because of its concerns about availability of key resources, notably signalling. At present, Railtrack plc is being run by the administrators that were appointed by the Secretary of State for Transport, Local Government and the Regions. I will meet the administrators presently to press the case for key rail projects in Scotland.

**Mr McNeil:** I welcome the minister's response. She will be aware of the delays that face the joint project to redevelop Gourock waterfront. What particular assistance can she offer to ensure that Railtrack quickly prioritises sufficient technical resources for that project and that it also deals with the limits of the station regeneration budget so that they do not become another constraint to the project?

**Sarah Boyack:** I assure the member that we are raising the case with all the key people. Crucially, I have met Richard Bowker from the Strategic Rail Authority and John Spellar, and I intend to press the case further. I am aware that

Gourock is a particular problem because there are time constraints to consider. We need to ensure that projects such as the redevelopment of Gourock waterfront go ahead.

**Christine Grahame (South of Scotland) (SNP):** I refer the minister to table 3.3 in the document "Strategic Priorities for Scotland's Passenger Railway", which is headed:

"Most favoured major development projects".

Beneath that table, the document states:

"The Waverley Route through the Borders was the specifically named project most favoured by"

individuals. It also states:

"This stood out from all other proposals."

My information is that civil servants in the minister's office—

**The Deputy Presiding Officer:** Will the member ask a question?

**Christine Grahame:** The question is coming. My information is that civil servants in the minister's office are lukewarm, to say the least, about that project. Will the minister confirm or deny the attitude of her civil servants? Is that one of the key projects that she will refer to Railtrack?

**Sarah Boyack:** I am amazed that Christine Grahame wanted to make that point—it is total fiction. The question is about current projects that have been held back not just by Railtrack going into administration, but by problems that the company faced. I am looking forward to considering the new franchise. That is the context of new rail projects such as the Borders line and the Bathgate to Airdrie projects. Such projects are longer-term projects. The key challenge is to unlock rail projects that are on the books and to which we have already signed up.

### Ophthalmology Services

**3. Alex Johnstone (North-East Scotland) (Con):** To ask the Scottish Executive what its response is to the statement by Professor John Forrester in the Aberdeen *Evening Express* of 26 October 2001 regarding the possibility of patients losing sight unnecessarily because of shortages of resources and basic equipment. (S10-4085)

**The Minister for Health and Community Care (Susan Deacon):** Provision of services that are safe, high quality, sustainable and affordable is the responsibility of national health service boards. The organisation and development of specific local health services are best dealt with at local level.

I understand that NHS Grampian is working with Professor Forrester and others to review the provision of ophthalmology services in north-east Scotland.

**Alex Johnstone:** Is not it a source of embarrassment to the Scottish Executive that the resources that are available for health service provision in north-east Scotland are now so thin on the ground that such a situation has become inevitable and is likely to be repeated?

**Susan Deacon:** That is a tired old line that members follow in respect of the NHS in Grampian. Let us deal with the facts. The NHS in Grampian is benefitting from record additional investment, as is every part of the country. It is important that that investment is used well to address the many different and often competing needs in different areas. Ophthalmology services are important and I am pleased that Professor Forrester referred in the same article to the fact that the Government's efforts have improved in cataract services, for example. I am also pleased that three new consultant ophthalmologists have been employed. Real improvements are taking place. Of course, more must be done, but we are focusing on ensuring that that real additional investment is being put to good use in Grampian and elsewhere.

**Elaine Thomson (Aberdeen North) (Lab):** Does the minister agree that thanks to free eye tests for the elderly, which have been delivered by the Labour party, eye diseases such as glaucoma are diagnosed and treated earlier? The minister said that Professor Forrester acknowledged the improvement in the treatment of cataracts. That is of real benefit to people in Grampian.

**Susan Deacon:** I can hear SNP members trying quickly to dismiss what Elaine Thomson said and I am not surprised by that. Elaine Thomson referred to one of the real and significant improvements that Labour Government policy has made to the health of older people in this country. In case SNP members did not hear what Elaine Thomson said, latest figures show that more than twice the number of sight tests are being carried out in the NHS in Scotland than were carried out a decade ago. That is a result of the Labour Government's extension of free sight tests to adults aged 60 and over and to those who are at risk of developing glaucoma. That has been a major success and has meant real benefits for thousands of people throughout Scotland. We can be proud of that.

### **Devolved School Management**

**4. Trish Godman (West Renfrewshire) (Lab):** To ask the Scottish Executive how a balance will be struck between any benefits from decision making through devolved school management schemes and the additional work load for headteachers. (S10-4116)

**The Deputy Minister for Education, Europe and External Affairs (Nicol Stephen):** An effective devolved school management scheme

provides schools with the opportunity to make budget decisions that best suit local circumstances. The intention is that, when those schemes are operated effectively, devolved school management should ease head teacher work loads.

**Trish Godman:** I thank the minister for his answer. I will wait to find out whether head teachers agree with him. Does the minister agree that devolved school management is about forming local priorities with pupils, parents and the community? What plans does the minister have to ensure that examples of good practice are communicated to all schools? What plans does he have to monitor the success of the devolved school management schemes?

**Nicol Stephen:** I agree that we should roll out good practice throughout Scotland.

A report was published on 26 October—following work that was done by a review group that was commissioned by the education department—which made it clear that research had established that, when they work effectively, devolved school management procedures lead to considerable benefits for schools, pupils and parents. However, the performance of devolved school management is patchy throughout Scotland. Much good research is associated with that report and it is vital not only that we implement devolved school management, but that we implement it well throughout Scotland.

**Mr Keith Raffan (Mid Scotland and Fife) (LD):** Will the Executive meet the target that was set by the working group on devolved school management last month and complete by December the review to establish the number of full-time equivalent staff that are employed specifically to operate devolved school management? Will the minister confirm that that information will be updated annually?

**Nicol Stephen:** That is our intention. Clearly, one of the considerable benefits of the settlement that was reached with teachers organisations and the Convention of Scottish Local Authorities earlier this year to create the new teaching profession for the 21<sup>st</sup> century is that more staff can be used to implement devolved school management. That will take the administrative burden off teachers and ensure that the education department devolves more responsibility to local authorities and that the local authorities devolve more responsibility to local schools.

### **Primary Care Trusts (General Practitioner Services)**

**5. George Lyon (Argyll and Bute) (LD):** To ask the Scottish Executive what powers it has to intervene so that the additional money it made

available to primary care trusts specifically for improving local general practitioner services is not reallocated to other areas of service provision. (S10-4118)

**The Minister for Health and Community Care (Susan Deacon):** It is the responsibility of local national health service management to ensure that investment moneys are used appropriately to address the health needs of the population in accordance with national and local priorities. The health department's role in relation to the performance management and accountability of NHS Scotland is set out in "Rebuilding our National Health Service", which was published in May 2001.

**George Lyon:** Is the minister aware of the deep concerns that were expressed last week by general practitioners in Argyll and Bute over the failure by Argyll and Clyde Health Board to pay out its share of the £30 million package for primary care that she announced in August? If she is aware of that, what action did she take to try to resolve the GPs' concerns? Does she agree that that situation highlights the need for better accountability and more openness in the operation of NHS quangos?

**Susan Deacon:** I am aware of the concerns that were raised by GPs and other primary care practitioners in Argyll and Clyde about additional money that they wanted to be invested in primary care services and, when I visited Oban recently, I discussed the matter at some length. I looked into the issue more fully and am pleased to say that, on 8 November, John Mullin, the chair of Argyll and Clyde Health Board, announced that an extra £507,000 would be invested in primary care in Argyll and Clyde this year and next. That is excellent news for those services.

### Deafblindness Services

**6. Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** To ask the Scottish Executive, further to the answer to question S1W-14825 by Malcolm Chisholm on 18 April 2001, whether it will now issue guidance similar to that issued in England and Wales under section 7 of the Local Authority Social Services Act 1970, regarding social care for deafblind children and adults. (S10-4103)

**The Deputy Minister for Health and Community Care (Malcolm Chisholm):** There are no plans at present to issue similar guidance in Scotland. However, the Executive is taking similar steps to ensure improvements in care of deafblind children and adults in Scotland through implementation of the recommendations in "Sensing Progress" and the certification and registration working group.

**Cathie Craigie:** I am sure that all of us in the

chamber will agree that to lose one of our senses is bad but that to lose two is something that makes carrying out everyday tasks difficult.

The guidance that was issued in England and Wales was issued because of compelling evidence that certain measures could make a difference to the lives of deafblind people. Will the minister make it a priority of the Executive to issue the necessary guidance that will ensure that local authorities identify and make contact with all deafblind people to assess their needs in order to provide the necessary support, and that the assessment is carried out by people who are specifically trained in deafblindness?

**Malcolm Chisholm:** We attach great importance to services for people who have sensory impairments, but we are going about our work differently from England and Wales. We are monitoring progress in the matter and the chief social work inspector will report on it in his annual report.

As Cathie Craigie knows, one of the recommendations of the report was to set up a certification and registration working group. We are currently consulting on that group's 15 recommendations. We will progress those with an Executive response in the near future.

### Strathclyde Passenger Transport

**7. Robert Brown (Glasgow) (LD):** To ask the Scottish Executive what measures it is taking to assist Strathclyde Passenger Transport with improving the integrated transport facilities of west central Scotland. (S10-4115)

**The Minister for Transport and Planning (Sarah Boyack):** In the most recent round of public transport fund awards, I announced more than £14 million of funding for Strathclyde Passenger Transport to purchase new rolling stock, to refurbish existing trains and to develop plans for better transport interchanges. That came on top of previous awards of more than £5 million from the public transport fund, which funded projects such as the Partick interchange and a previous refurbishment of rolling stock. Our £21 million investment in the Larkhall to Milngavie rail link consisted of £16 million for infrastructure plus £5 million for the additional rolling stock that was required. We have also made significant increases in SPT's capital allocation from the Executive.

**Robert Brown:** Is the minister aware that Strathclyde Passenger Transport Executive is the only dedicated passenger transport executive in Scotland and that there is inertia in relation to the crucial and long-outstanding Glasgow crossrail project and the Glasgow airport link? Can the minister tell Parliament why there is not even a formal proposal to the Scottish ministers on either

of those projects? Will she tell Parliament where the buck stops among SPTE, Glasgow City Council, Railtrack and the Executive? When can the people of Glasgow expect movement—in all senses of the word—on those crucial matters?

**Sarah Boyack:** The critical issue to which Mr Brown alludes is partnership. We have a framework for that through the west of Scotland transport partnership, with local authorities working closely together. There is also SPTE which, as Mr Brown rightly says, is the sole passenger transport executive in Scotland.

A range of projects is currently being implemented. I have not yet received a proposal on the Glasgow crossrail from SPTE. It is for SPTE to work out that project and then to consider future funding options.

Mr Brown can be assured that many projects are being delivered in west central Scotland through SPT and funding from the Executive.

**Ms Sandra White (Glasgow) (SNP):** I have many papers and answers to questions regarding studies that have been carried out on the Glasgow crossrail and the Glasgow airport link. Does the minister agree with many people—not only with me—that there have been enough studies and that not enough action has been taken?

Will she fulfil her responsibility to our public transport system and show some initiative, provide the necessary investment and take the action that is required to make those long-awaited schemes reality?

**Sarah Boyack:** I disagree fundamentally. Unless we have proper robust studies, we cannot implement projects that require major investment. We have a number of projects going ahead at the moment only because there was a robust, value-for-money case for them. If we are to finance projects by attracting money from the private sector, we need to ensure that we have good business cases. That is why we will study rail access to Glasgow and Edinburgh airports. That work is absolutely critical. It is absolutely crazy to pretend that we can go ahead with a project without a good case.

**Phil Gallie (South of Scotland) (Con):** Is the minister aware of the many failings that passengers on the Glasgow to Ayrshire rail lines are experiencing? Will she say what assistance SPT has sought in resolving those problems?

**Sarah Boyack:** Part of this year's public transport fund award to SPT was specifically for new rolling stock for Ayrshire commuters, who come from Kilmarnock and Ayr. I know that there are key issues with passenger comfort on those routes to Glasgow. SPT received such a large award from the public transport fund this year

especially to tackle the problems on the Ayrshire routes.

**Karen Whitefield (Airdrie and Shotts) (Lab):** Does the minister agree that information in the multimodal study update to the effect that 3,500 journeys a day are made between North Lanarkshire and West Lothian, and that 96 per cent of those are made by car, significantly strengthens the argument for reopening the Airdrie to Bathgate rail line?

**Sarah Boyack:** The key point that came across from the consultants' presentation yesterday, which many members attended, was that our existing public transport network cannot meet the transport needs that the consultants identified in relation to the motorway.

We need to consider carefully a range of issues, for example strategic bus routes and new railway opportunities, such as the one that Karen Whitefield mentioned. Yesterday, the key issue for me was seeing how many people travel alone in their cars. Choice is not available to them. That re-emphasises the need not only to ensure that the money that we have spent on public transport is implemented, but that we have long-term and sustainable funding for a range of projects throughout west-central Scotland.

#### **New Royal Infirmary of Edinburgh**

**8. Ms Margo MacDonald (Lothians) (SNP):** To ask the Scottish Executive whether the new Edinburgh Royal infirmary will offer an enhanced service compared with the present services provided by the Royal hospital for sick children, Princess Margaret Rose orthopaedic hospital and the existing Edinburgh Royal infirmary. (S10-4096)

**The Minister for Health and Community Care (Susan Deacon):** The £184 million new royal infirmary of Edinburgh will offer a significant improvement in the quality of service offered to the population of south-east Scotland. The new hospital will offer first-class surroundings and state-of-the-art equipment to match the excellent clinical care already delivered by health professionals in Lothian.

**Ms MacDonald:** I thank the minister for her answer. Will she expand on why she has such faith in the service being provided and in the new infirmary being an enhancement, given that between 138 and 160 jobs will be lost? Those will include accident and emergency nurses, clinical nurse managers, diabetes nurse specialists and radiographers—to mention just a few.

**Susan Deacon:** It is disappointing, to say the least, to hear the range of numbers that are being bandied about in relation to money and jobs in the project, which are undermining the confidence of

staff and the public.

Margo MacDonald is in danger of missing the point. Let us remember that this is the biggest hospital-building project not only in Scotland, but in the whole of Britain. It will provide, for example, new single-sex accommodation throughout the hospital, en suite toilet facilities for patients, greater privacy and dignity and proper organisation of facilities in which staff can do their job better. I say to anybody who has had occasion, as I have, to visit or be in the old Edinburgh royal infirmary recently that the new facilities will be like night and day compared to the present ones. We must now allow local management to get on with the task of ensuring that services are transferred properly and delivered effectively in the future—and yes, I do have confidence in their ability to do that.

#### **Dumfries and Galloway Health Board (Dental Services)**

**9. Alasdair Morgan (Galloway and Upper Nithsdale) (SNP):** To ask the Scottish Executive what discussions it has had with Dumfries and Galloway Health Board concerning dental provision in the area. (S1O-4087)

**The Deputy Minister for Health and Community Care (Malcolm Chisholm):** No recent discussions have taken place concerning dental provision.

**Alasdair Morgan:** I thank the minister for that informative answer. Is he aware that Dumfries and Galloway has the fewest dentists per head of population in mainland Scotland, which results in my constituents having longer waiting times, difficulties in registering with a dentist and considerable distances to travel to a dentist if they do get registered? I know that getting the answer that I want might be a bit like pulling teeth—[MEMBERS: “Aw.”]—but can he give my constituents any prospect that the situation will improve?

**Malcolm Chisholm:** I am well aware of that problem and that is why the Executive recently set up the national expert group on the recruitment and retention of dentists in remote and rural areas. We are mindful that there are issues that have to be addressed urgently. There are, of course, initiatives under way that are already having some effect—such as the Scottish dental access initiative. I know that there have been some awards to dentists in Dumfries and Galloway under that initiative.

There is also the possibility of having salaried dentists and perhaps an approach will be made from Dumfries and Galloway about that. There are also financial incentives for dentists who commit themselves to the NHS. There are many on-going

initiatives—that is true of dentistry overall. I am sure that we all welcomed the announcement by Susan Deacon this morning of £3.8 million for the improvement of dental practices throughout Scotland.

**Dr Elaine Murray (Dumfries) (Lab):** I am grateful to the minister for outlining some of the projects that are under way, but I wonder whether he is aware how urgent this problem has become in Dumfries and Galloway and, indeed, in the town of Dumfries, where—sadly—dentists are leaving the national health service and going into private practice. I have constituents who have serious decay problems and are in considerable pain, but who simply cannot get a dentist in Dumfries. It is affecting adults, children, and, unfortunately, pregnant mothers. In that area dental health figures are below the average for Scotland. I am grateful to the minister for his various actions, but is he aware how urgent this matter is becoming in Dumfries and Galloway?

**Malcolm Chisholm:** I know that Elaine Murray has taken a keen interest in the issue. I would be pleased to meet her, as the constituency MSP, to discuss the matter with her.

#### **Teacher Training (Mature Students)**

**10. Irene McGugan (North-East Scotland) (SNP):** To ask the Scottish Executive whether transitional arrangements will be made for mature students currently on teacher training courses so that they are not financially disadvantaged by any changes instigated under the McCrone settlement. (S1O-4064)

**The Deputy Minister for Education, Europe and External Affairs (Nicol Stephen):** The decision on whether or not to accept the proposed changes to pay for probationer teachers, including any transitional arrangements, is a matter for the Scottish negotiating committee for teachers—the SNCT—whose next meeting is on 5 December.

**Irene McGugan:** Is the minister not concerned that mature trainee teachers, who were promised higher rates of pay in recognition of their age and real-life experience, feel that they have been grossly misled over starting salaries, and that, because of the implications of the probationary year, they might, in some cases, lose as much as £10,000? Is he aware that many of them are considering leaving their courses because of the prospect of significant debts and of a wage that is lower than anticipated? Does he acknowledge the concerns of the six Scottish teacher training establishments, which have warned that the proposals could ultimately lead to a teacher shortage? When will the minister end the uncertainty and confirm the pay scales for mature entrants to teaching?

**Nicol Stephen:** The direct answer is that I would be very concerned if some mature student teachers had been misled. I know—as does Jack McConnell, who has received representations on the issue from a group of mature students—that some of them feel that they have been misled. We have received many representations, and I am sympathetic to the proposal that those who are currently going through teacher training and who would be disadvantaged by any new proposals should benefit from transitional arrangements, which would provide one way to ensure that there is no disadvantage. The Scottish Executive, along with teachers organisations and the Convention of Scottish Local Authorities, is represented on the SNCT, and will make its views on the matter known on 5 December.

It is important to underline that all teachers in Scotland will be getting a very significant increase as a result of the new pay and conditions package. All of them will receive more than 21 per cent extra over the next three years. The probationers' salaries, once they have gone through training, will be on a range from £21,588 to £28,707. That is the sort of starting salary that I believe will attract new people into teaching and that members of the Parliament want to see.

**Mrs Mary Mulligan (Linlithgow) (Lab):** What action, if any, is being taken to encourage mature men, in particular, into primary schools, given that the gender imbalance in primary schools is becoming a particular problem?

**Nicol Stephen:** It is not becoming a particular problem—it has been a problem for a significant time. The intention behind the new pay and conditions package is to attract a range of individuals from a variety of backgrounds into teaching and to encourage into the profession individuals who would perhaps not have considered teaching as an appropriate career choice or profession in the past. That means ensuring that we get well-qualified teachers—male and female—into the profession and start to tackle the current imbalance in primary schools.

### Debt Advice

**11. Johann Lamont (Glasgow Pollok) (Lab):** To ask the Scottish Executive what steps it is taking to ensure that debt advice is widely available and accessible. (S10-4106)

**The Minister for Social Justice (Jackie Baillie):** To ensure that people get free, high quality debt advice, we are working with advice agencies and other partners, including the financial sector, to establish a national debtline service, which will be piloted in Fife early in the new year.

**Johann Lamont:** Does the minister agree that a

key difficulty that people have in tackling their debt problems is the delay in getting to the stage of receiving help and support? How does the minister envisage increasing awareness of the services that are available and of the importance of seeking help early? Does she recognise the importance of ensuring that such debt advice is sufficiently resourced to make help real and effective in local communities, especially where increased awareness has increased the number of people seeking that help?

**Jackie Baillie:** I always find that I agree with Johann Lamont. We are taking a number of initiatives to address the issues that she raises. Not least, we are considering alternatives to people getting into debt in the first place, through a £1.5 million package to develop and support credit unions in Scotland. The report "Striking the Balance—a new approach to debt management", which has been published by the working group on a replacement for poinding and warrant sale, is concerned specifically both with how we increase the provision of debt advice and advice in general, and with how we ensure that the timeous advice that is so helpful in preventing people from getting into a worse position than they are in already is available throughout Scotland.

**Mr Kenneth Gibson (Glasgow) (SNP):** What guidance has the Scottish Executive issued to local authorities on the funding of agencies that provide debt advice?

**Jackie Baillie:** As Kenneth Gibson will be aware, currently the funding of advice and information in a generic sense is the responsibility of local authorities. However, the Housing (Scotland) Act 2001 places a statutory duty on local authorities to provide housing advice and information. We have resourced that provision, together with the full homelessness package, with £27 million. Guidance has been issued to local authorities on how to develop the provision of housing advice and information.

### Nursing Students (Financial Treatment)

**12. Tavish Scott (Shetland) (LD):** To ask the Scottish Executive what action it plans to take to ensure equitable financial treatment of students undertaking nursing diploma courses and those undertaking nursing degree courses. (S10-4078)

**The Minister for Health and Community Care (Susan Deacon):** The Scottish Executive is taking forward a range of measures to improve support for nursing students. As part of that on-going work, I am pleased to announce that, from autumn 2002, all new and second-year nursing students undertaking nursing degree or diploma courses will receive the nursing and midwifery student bursary. That will end the inequity that currently exists between degree and diploma students.

**Tavish Scott:** I thank the minister for that reply, which deals with a substantial part of my supplementary. Does the minister share my concern about the unpaid hours that degree nurses have to undertake as part of clinical placements? Will the minister consider proposals to ease the additional financial pressure on nursing students, given that we want to improve recruitment to the nursing profession?

**Susan Deacon:** I am pleased that we have made progress in a number of ways that will genuinely benefit both nursing students and nurses. I agree that we need to continue to work on this issue, to ensure that we have the nursing professionals in the NHS that we need, both now and for the future. The issues that Tavish Scott has raised are among many that Malcolm Chisholm and I will discuss at the nursing convention that is to be held next Monday.

**Robin Harper (Lothians) (Green):** I have been lobbied on this issue. Will the minister tell us whether she will address the concerns of third-year and fourth-year students?

**Susan Deacon:** Second-year students have been included in the provision for the nursing and midwifery student bursary because, when we announced last year that this was a matter for review, we explained that any changes to the arrangements would in effect be backdated to cover those beginning courses last year. All new students will be covered by the new arrangements throughout their studies.

### **Oil and Gas Sector (Scottish Executive Strategy)**

**13. Richard Lochhead (North-East Scotland) (SNP):** To ask the Scottish Executive whether it has, within its overall enterprise strategy, any plans to publish a strategy for its future role in relation to the oil and gas sector in Scotland. (S10-4077)

**The Deputy Minister for Enterprise and Lifelong Learning and Gaelic (Mr Alasdair Morrison):** The Scottish Executive fully recognises the vital importance of the oil and gas industry to the Scottish economy. We are working through the joint Government and industry PILOT task force to ensure that the industry retains its importance for many years to come. As vice-chairman of PILOT, I will continue to promote and safeguard Scotland's interests in the oil industry.

**Richard Lochhead:** Every oil and gas executive in the north-east of Scotland to whom I speak favours the publication of a specific strategy by the Scottish Government for the oil and gas industry. Despite the tragic announcement from Grangemouth earlier this week, the industry still employs approximately 170,000 people in

Scotland. Although for the time being licensing and taxation may be reserved to Westminster, every other policy area that impacts on the industry is the responsibility of this Parliament. Will the minister introduce a specific strategy for the offshore industry in Scotland?

**Mr Morrison:** Mr Lochhead's supplementary contained the usual measure of ignorance and sanctimony. I remind him that PILOT was established two years ago. Last year, capital investment and expenditure levels reached the PILOT targets of £3 billion. This year, investment has been increased by £1 billion. In case Mr Lochhead has difficulty making the calculation, that takes the amount to £4 billion. That increase is due to a number of factors, not least the excellent collaboration between the industry and the Government.

**Cathy Peattie (Falkirk East) (Lab):** Given this week's announcement from BP about the loss of up to 1,000 jobs at Grangemouth, what steps can the Executive take to support those who face redundancy? How will it help to support the local economy in Falkirk?

**Mr Morrison:** On behalf of my colleague Wendy Alexander, I thank Cathy Peattie and other MSPs from constituencies adjacent to hers for their assistance over the past few days. We will assist the industry and the work force and try our utmost to safeguard the remaining jobs at Grangemouth. BP has told us that it continues to recruit modern apprentices and graduate trainees and will retrain its remaining work force as required. BP management has given Wendy Alexander an undertaking that it will continue to work with local agencies to prepare a robust action plan to broaden and enhance the area's economy.

**Dennis Canavan (Falkirk West):** Is the minister aware that the announcement will mean redundancy for 40 per cent of the BP Grangemouth work force? That will be a devastating blow for the economy of the whole of central Scotland. Will the minister urge the company to enter into meaningful consultation with the trade unions to minimise the number of redundancies? Will the Executive also set up a task force to regenerate and diversify the economy of the Falkirk-Grangemouth area so that the workers find alternative employment?

**Mr Morrison:** We fully appreciate the magnitude and significance of this week's announcement. I give Mr Canavan the undertaking that we will have close and detailed discussion with the company. Mr Canavan attended the meeting yesterday, so he will appreciate that the unions were present at that. We will continue to pursue a number of lines in relation to health and safety and on a number of the important issues that Mr Canavan has raised.



**Mr David Davidson (North-East Scotland)**

**(Con):** I am sure that the minister is aware that Richard Lochhead is not the only MSP to whom the oil and gas industry speaks. What actions does the Executive propose to take to help the oil and gas industry meet the present skill shortage?

**Mr Morrison:** Let me point out that Mr Lochhead is not the only ignorant and sanctimonious MSP. We will continue to address the concerns over skill shortages. I give Mr Davidson a cast-iron guarantee that that important work is currently being undertaken.

**Science Research and Development (Funding)**

**14. Nora Radcliffe (Gordon) (LD):** Before I ask my question, let me tell the chamber that we are joined in the visitors gallery by a large number of our leading scientists, who are participating in the first "Science and the Parliament" event. *[Applause.]*

To ask the Scottish Executive what plans it has to boost funding for science research and development from both private and public sources. (S10-4114)

**The Minister for Enterprise and Lifelong Learning (Ms Wendy Alexander):** We plan to raise public expenditure on science research by 15 per cent in real terms over the lifetime of the Parliament. Additional funding has also recently been provided to various initiatives. Those include: the small firms merit award for research and technology and the support for products under research scheme, both of which are for companies; the proof of concept fund, which is for academics; and the enterprise fellowships, which are for postgraduates. All of those will stimulate research and development by the public and private sectors.

**Nora Radcliffe:** I am delighted with the minister's answer. Given the fact that the annual economic rate of return from academic research has been estimated at 20 to 28 per cent, there should be a direct payback. A supply of scientists is needed to maintain our science base. What is being done to encourage young people to make a career in science?

**Ms Alexander:** My colleagues in the education department, Jack McConnell and Nicol Stephen, are looking at how we encourage young people to pursue science through their school career. Through the activities of the Scottish Institute for Enterprise, we are encouraging undergraduates who are taking science and technology courses to consider moving into postgraduate work and pursuing an enterprise fellowship and a career in enterprise.

The issue is at the top of the agenda as we reshape the whole approach of both the Scottish

Higher Education Funding Council and the enterprise network, focusing Scotland on its real strengths—the skills of our people and the quality of the research in our higher education institutions.

## First Minister's Question Time

### SCOTTISH EXECUTIVE

#### Cabinet (Meetings)

**1. Mr John Swinney (North Tayside) (SNP):** To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S1F-1372)

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** The Scottish Cabinet will next meet on 20 November when, as ever, it will discuss matters of importance to the people of Scotland.

**Mr Swinney:** I thank the acting First Minister for his reply. I am sure that Mr Wallace will share my concern that the office of First Minister of the Scottish Executive and of Scottish public life in general has been undermined by the atmosphere of cronyism and secrecy that has dominated the past few weeks. He will know, as I do, that the root causes of that cronyism are the one-party Labour municipal states in central Scotland. To get rid of those one-party states, will the acting First Minister make it clear today that the support of the Liberal Democrats for the nominee for First Minister next Thursday will be conditional on the introduction of a system of fair voting for the 2003 elections?

**The Deputy Presiding Officer (Mr George Reid):** Mr Wallace will be well aware that he answers only on matters for which he has general responsibility.

**Mr Wallace:** It is probably one of the most open secrets in Scottish politics that the Liberal Democrats support proportional representation for local government. I remind Mr Swinney that, in September, First Minister Mr Henry McLeish said:

"We want to ensure that we can effectively hold to account those who take decisions, so the Kerley principles will be at the heart of our modernisation of local government."—[*Official Report*, 5 September 2001; c 2202.]

Mr Swinney ought to reflect on the fact that the commitment to make progress on electoral reform for local government was in the partnership agreement and in the second programme for government, which was agreed by both parties and published earlier this year. Progress has been made and will continue to be made.

I can also tell Mr Swinney that, when Mr McConnell comes to the Liberal Democrat group, as he has volunteered to do, it will not only be that subject that we discuss. Unlike Mr Swinney's party, we are not a one-issue party. We will not be seeking to renegotiate the partnership agreement. We will be asking Mr McConnell to affirm—as I am

sure he will—his support for the partnership agreement. As Minister for Finance, with the funding that he gave to local government, and as Minister for Education, Europe and External Affairs, with what he has delivered on McCrone, he has done more than his fair share in delivering on that agreement.

**The Deputy Presiding Officer:** I want to make it clear that Mr Wallace is here as Deputy First Minister and not as leader of the Liberal Democrats. Questions should relate to that general responsibility.

**Mr Swinney:** It is clear that the Liberal Democrats are not a one-policy party, but what we want to know is this: are they an any-principle party? Will the acting First Minister take the opportunity today to confirm that, having made no progress for 17 months since the publication of the Kerley report, he will make support for the next First Minister conditional on the introduction of PR for the 2003 elections? Does he not realise that tackling the problems of cronyism must be done by the First Minister—unless that First Minister is corroded by them as well?

**Mr Wallace:** Obviously, I do not accept the premise of Mr Swinney's question. However, I would say this. Mr Swinney talks about principles. His party's principle of independence is one that, in most election addresses, he seems scared to mention.

We have taken steps towards putting some of our principles into practice. That is why, over the past two and a half years, the partnership Government has delivered on the abolition of tuition fees, on free personal care for the elderly, on concessionary fares for the elderly, on large increases in teachers' pay, on a record number of police officers and on free nursery education for all three and four-year-olds. That is what I call putting principles into practice. I am pleased to have been a member of an Administration that has done that.

**Mr Swinney:** Mr Wallace forgot to mention that 8,000 more people are on waiting lists since the Liberal Democrats came to office, that prison numbers are at their highest, that unemployment has gone up and that manufacturing is in recession. Is it not time that the acting First Minister put some of his principles into practice and did something to live up to the demands of his back benchers by tackling cronyism and by getting fair voting into our local authority elections? When will the principles come forward?

**Mr Wallace:** I have heard all that before from SNP members. They said it when the Scottish Liberal Democrats and the Labour party went into the Scottish Constitutional Convention. They said that we would never deliver and that we would certainly not deliver proportional representation,

but we provided the blueprint for a Scottish Parliament, which now exists, and we delivered proportional representation. If it were not for that, there would be only seven members on the SNP benches and one on the Conservative benches. [Applause.]

**Members:** Who is next?

**The Deputy Presiding Officer:** I call David McLetchie.

### Secretary of State for Scotland (Meetings)

**2. David McLetchie (Lothians) (Con):** I thought that this was a Parliament, not a pantomime, but seasonal touches on the Government benches are always welcome.

I generously welcome back Mr Wallace for the third time in his capacity as acting First Minister. If we were playing under the Jules Rimet rules, he would get to keep the job, but it is probably just as well for us all that he will not.

I will kick off by asking the First Minister when he will next meet the Secretary of State for Scotland and what issues he plans to raise. (S1F-1373)

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** I am grateful to Mr McLetchie for his kind words of welcome.

I met the Secretary of State for Scotland on Sunday of this week and have subsequently spoken to her on the telephone. I have no immediate plans for a further meeting.

**David McLetchie:** I am sure that the acting First Minister will enjoy reporting to the Secretary of State for Scotland on recent events. As someone with a track record of providing supine support for her bosses, the secretary of state will no doubt have been mightily impressed by the silence of the Lib Dem lambs in the Parliament in the past few weeks.

**The Deputy Presiding Officer:** Mr McLetchie, I repeat what I said earlier about Mr Wallace's role.

**David McLetchie:** I am coming to the question. Will the Deputy First Minister explain how he and his party have the brass neck to claim taxpayers' money as an Opposition party in the Parliament, when they spend their time offering slavish and uncritical support to their masters?

**The Deputy Presiding Officer:** Your question must be on the Deputy First Minister's areas of general responsibility.

**David McLetchie:** It is. The Deputy First Minister is responsible for the rules that relate to Short money in the Parliament. I ask him whether claiming that money is akin to taking money under false pretences. Should not we change the rules to reflect political realities?

**Mr Wallace:** I think that the rules to which Mr McLetchie refers are in an order in council under section 97 of the Scotland Act 1998. He has again missed the point. My party, in coalition with the Labour party, has been delivering for Scotland on a range of issues that have mattered to us as a party over many years and—to keep myself in order, Presiding Officer—that matter to the Executive. We have been delivering and will continue to deliver. If the Parliament chooses to elect Mr McConnell next week, we will continue to deliver for the people of Scotland. That is in stark contrast to the kind of opposition that we have been seeing, which rarely mentions the issues that are of importance to the people of Scotland.

**David McLetchie:** The Deputy First Minister has clearly not been listening. We have been focusing on the issues for two and a half years. He has been obsessed with irrelevancies.

People know where the effective opposition lies in this Parliament and where the loyalties of certain people lie. A couple of weeks ago, the Deputy First Minister was so enamoured of his relationship with his Labour colleagues in the Scottish Executive that he declared his undying love in the pages of *The Herald*. Was Henry McLeish not inadvertently right when he famously said that there was

“only one party in this coalition”?—[*Official Report*, 23 November 2000; Vol 9, c399.]

Given that no one in the Labour party has the guts to take on Jack McConnell, if the acting First Minister wants to prove that he is an independent partner in the coalition, why does he not stand for First Minister next Thursday?

**Mr Wallace:** I am not sure how much of that was in order. The article in *The Herald* to which Mr McLetchie refers stated that the party that I wanted to win was the Liberal Democrats. That should not come as a surprise to anyone. We all know Mr McLetchie's agenda. Since he became leader of the Scottish Conservatives, he has systematically tried to undermine the Parliament. He said in a radio interview at the weekend that, if the devolution referendum were rerun, he still would not vote yes-yes. He confirmed what we all know: he is a no-no man leading a no-no party.

### Drug Misuse

**3. Iain Smith (North-East Fife) (LD):** To ask the First Minister what progress the Scottish Executive is making in tackling drug misuse. (S1F-1386)

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** We are making solid progress in implementing Scotland's drugs strategy and action plan in our communities, backed by almost £130 million in new resources. Achievements to date include the provision of

drugs education in 97 per cent of schools in Scotland and the successes of the Scottish Drug Enforcement Agency, which seized drugs with a street value of more than £17.8 million in its first year. Scotland's first drugs court sat this week and my colleague Iain Gray announced plans this week to open another one in Fife.

**Iain Smith:** Will Jim Wallace join me in welcoming that decision to open the second drugs court in Fife and in particular the additional £3 million of resources that will be made available to Fife Health Board and Fife Council for treatment, rehabilitation and work with families and young people? Will he also welcome the support for the Drug and Alcohol Project Levenmouth to develop services for under-18s in north-east Fife? Does he acknowledge that that is part of recognising that drug abuse and misuse is a problem in rural areas as well as in urban environments? Finally, will he indicate what proportion of the Scottish Executive's expenditure on tackling drug misuse is spent on enforcement, treatment and rehabilitation, and education?

**Mr Wallace:** On the last part of Iain Smith's question, around 40 per cent of expenditure goes on enforcement, compared with 43 per cent on drug treatment and rehabilitation and 17 per cent on prevention. That underlines our approach to treatment and rehabilitation to enable drug users to put their drug problems behind them and lead normal lives. We are improving services that provide training and education to help that to happen. I welcome the additional resources that have been made available in Fife to the local authority and health board. That will be part of the efforts that are being made in Fife with the drugs court. I accept that there are issues with the provision of services in the rural parts of Fife. It is my understanding that, although gaps exist in the provision of treatment and rehabilitation, they are being addressed by the Fife drug and alcohol action team.

**The Deputy Presiding Officer:** I call Shona Robison. Can we keep questions short and to the point, please?

**Shona Robison (North-East Scotland) (SNP):** Is the Deputy First Minister aware of the research report published today showing the prevalence of drug misuse in Scotland? Does he agree that it is extremely concerning that Dundee has the second highest level of problematic drug misuse in Scotland, followed by Aberdeen, which has the third highest? Is he aware that, since 1997, when Labour came to power, the level of problematic drug misuse has been on the increase in Dundee and Aberdeen? Does he accept that those increases are a clear indication of his Government's failure to tackle drug misuse in Scotland?

**Mr Wallace:** I am aware of the prevalence study that has been published today and the disturbing figures throughout Scotland, specifically those for Dundee and Aberdeen, as Shona Robison mentioned. I do not think that drug misuse started in 1997 and I honestly do not think that it is a subject that lends itself to the making of partisan political points—the issue should be a matter of concern to the entire Parliament. We should acknowledge that efforts are being made in enforcement, in rehabilitation and treatment and in prevention and education. The package is comprehensive and I hope that it commends itself to all sections of the Parliament.

**Mary Scanlon (Highlands and Islands) (Con):** Is it acceptable for Moray Council to hold back more than £113,000, which was allocated by the Executive for the care and treatment of drug users, while those who seek help are told to come back in four to eight weeks?

**Mr Wallace:** I do not have any specific information on what is happening in Moray Council, but I hope that the resources that the Executive is making available to be channelled to different parts of Scotland for rehabilitation and treatment are used wisely and are directed towards rehabilitation and treatment. As I indicated, enforcement is part of the strategy, but so is the need to tackle the problems of those who are misusing drugs so that, as far as possible, they can get back to leading normal lives.

**Mr Keith Raffan (Mid Scotland and Fife) (LD):** Can the acting First Minister assure us that the cross-ministerial group on drug misuse will study that important prevalence report with great care? As the acting First Minister has said, the figures are disturbing. Almost twice the previous estimate—some 55,800 people—are misusing opiates and benzodiazepines. In light of those worrying figures, will the acting First Minister consider the Executive's strategy and the resources allocated?

**Mr Wallace:** I assure Mr Raffan that the figures will be given serious consideration. He mentions that the figures appear to have doubled. It is important to point out that the figure of 30,000 was a guesstimate at best. The important point of the present study is that it is robust and, perhaps for the first time, gives the base data with which we can measure progress and get on with the important jobs that have to be done in tackling drug misuse.

#### **Beatson Oncology Centre**

**4. Nicola Sturgeon (Glasgow) (SNP):** To ask the First Minister what action the Scottish Executive will take to improve the quality of care and treatment provided to cancer patients at the Beatson oncology centre in Glasgow. (S1F-1371)

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** The Executive is committed to improving cancer services in every part of Scotland. We recognise the importance of delivering the right investment where it is needed most. That is why Glasgow is receiving the lion's share of new investment—some £50 million is already committed. The Executive is of course very concerned by the news of recent departures of key staff from the Beatson oncology centre. The Minister for Health and Community Care demanded a report from the NHS in Glasgow. That report was received yesterday and the minister will give it urgent consideration.

**Nicola Sturgeon:** Is the acting First Minister aware of concerns in Glasgow that the cancer care situation has got worse instead of better in recent months? Is he aware of information that I received from a senior cancer consultant in Glasgow that, because of staff shortages in the Beatson oncology centre, clinics for lung cancer, breast cancer and gynaecological cancer will be withdrawn from the south side of Glasgow after 1 January 2002? Does he agree that such a loss of services in the city with the highest cancer rates in Europe would be unacceptable? Will he assure us that he and the Scottish Executive will take immediate action to ensure that those vital cancer services are protected?

**Mr Wallace:** I am aware of the concerns that have been expressed; we take them seriously. As Nicola Sturgeon will be the first to acknowledge, this is a serious issue. That is why Susan Deacon demanded an urgent report from the NHS in Glasgow and why—as I indicated in the original answer—the lion's share of new resources has been committed to Glasgow. I am advised that the trust is taking steps to provide locum cover to bridge the gap caused by the recent departures and that steps will be taken to fill the vacancies.

I am also advised that a dedicated full-time manager to support the work of the doctors and nurses at the Beatson will start on Monday. By the end of next week, a national team of cancer experts will have been assembled to give Beatson doctors extra support and advice. In addition, we have already committed £44 million to build a new, state-of-the-art cancer centre in Glasgow. I accept that there are concerns, but I hope that Nicola Sturgeon recognises that several specific measures are being taken to address them.

**Pauline McNeill (Glasgow Kelvin) (Lab):** The acting First Minister might be aware that I have been in close contact with the Beatson oncology centre to monitor arrangements for the transfer of the service to a single site in Bill Butler's constituency for the benefit of patients in the west of Scotland in general. Does he agree that the fundamental problem is that we simply do not train

and retain enough specialist staff to respond to the demands on cancer services? Training doctors and surgeons is not the only issue—specialist nurses and, in particular, radiographers are important. Will the acting First Minister agree to examine medical school numbers and schemes to retain cancer specialists of all kinds?

**Mr Wallace:** I accept that producing skilled cancer consultants is not just a matter of turning on a tap—long lead times are often involved. Pauline McNeill makes an important point about addressing those issues for the future through medical students.

A range of issues must be dealt with. I hope that I have indicated that there is a range of responses. I add that I am advised that the local trust has confirmed that, if necessary, it will headhunt across Europe to find the right people.

**Dorothy-Grace Elder (Glasgow) (SNP):** Does the Deputy First Minister realise that the plight at the Beatson reflects the whole health scandal in Glasgow, where people die about six years earlier than people on the east coast? I ask the Deputy First Minister to turn his attention to the west, which has been shamefully neglected by the Executive. Does he not think it shameful that, for some cancers, people in Glasgow have the worst survival rate outside Estonia?

**Mr Wallace:** In my first answer to Nicola Sturgeon, I said that Glasgow had received a substantial share of the new resources that have been made available. It is simplistic to make a direct comparison to the situation at the Beatson, as was done in that question. It is widely recognised that many of the more deprived parts of Scotland have serious life-expectancy issues. The Executive gives that matter serious attention, but there is no simplistic answer. Our commitment to health promotion, tackling inequalities and tackling poverty has an important part to play in raising life expectancy in some of the deprived parts of Scotland, not least those in the west.

## School Education (Amendment) (Scotland) Bill: Stage 1

**The Deputy Presiding Officer (Patricia Ferguson):** The next item of business is a debate on motion S1M-2275, in the name of Jack McConnell, on the general principles of the School Education (Amendment) (Scotland) Bill. I ask members who wish to participate in the debate to press their request-to-speak buttons.

15:32

**The Deputy Minister for Education, Europe and External Affairs (Nicol Stephen):** I welcome the opportunity to move the motion to approve the general principles of the School Education (Amendment) (Scotland) Bill.

The bill is short. As its title suggests, it will amend existing legislation to deal with two matters. The first matter is rectifying what is called an unintended consequence of the Standards in Scotland's Schools etc Act 2000, which removed the statutory right to a placing request from some parents who would otherwise have been eligible to make one.

The second matter is abolition of the grade of assistant head teacher to pave the way for the implementation of a simplified career structure for the teaching profession, as outlined in the agreement in "A Teaching Profession for the 21<sup>st</sup> Century". That agreement received support from all parties in the Parliament earlier this year and was endorsed overwhelmingly by the teaching profession and employers alike.

Most important of all will be the benefits that the bill will bring to Scotland's young people. Members may wish to note that in the report that it issued this week, the Education, Culture and Sport Committee recommended approval of the principles of the bill. Therefore, the bill should be non-controversial, although points of detail will be discussed.

I will go into a little more detail on the two issues that the bill deals with. It is important that we adopt the bill quickly, to enable parents to make placing requests for children in time for the school term that begins in August 2002.

Let me explain that point in a bit more depth. The policy intention behind the amendment made in the Standards in Scotland's Schools etc Act 2000 was to make it clear that parents have no statutory right to submit a placing request for children under school age. In other words, there is no automatic right to a school place for children under four years and 6 months of age. The education authority could consider a request, but it

would not trigger the normal placing request requirements.

The intention in the Standards in Scotland's Schools etc Act 2000 was not correctly reflected in the statute. It is fair to say that that has resulted in considerable confusion and concern for local authorities, education departments and parents. At present, parents have a statutory right to make a placing request only if their child's fifth birthday has fallen by the time the child starts his or her primary 1 class in the August of any given year. Roughly speaking, that excludes half the pupils who have the right to start school, because a child can start school when they reach four years and 6 months of age. That was not the Executive's policy intention, nor, I am certain, was it the intention of the Scottish Parliament. I do not think that any of us consider that situation tenable.

As I said earlier, many of the children who start their primary 1 class each August are under five years old, but they are eligible to start school because their fifth birthday falls before the following March. Children can start school at any stage in the school year, providing that the child's birthday falls before the end of February. In certain circumstances, parents have the right to defer a child's entry. That is a separate issue. The basic principle is that, if a child's birthday falls in the period from the August start date to the end of February, the child has the right to start school.

It is only right that children of four years and 6 months of age have an equal right to a placing request as have their five-year-old fellow classmates. Education authorities and members of the Scottish Parliament have asked for the matter to be rectified. The Executive has concluded that a legislative amendment, as set out in the bill, is the best way of doing so as quickly as possible. We could have addressed the situation through guidance or another form of advice, but we believe that moving to legislation as quickly as possible is the correct way to proceed.

The legislative change that is proposed in section 2 of the bill allows for the abolition of the assistant head teacher grade—that is part of the McCrone agreement. Existing assistant head teachers will be assigned to the grade of deputy head teacher by means of what is called a job-sizing exercise. That is an important element of the work necessary to introduce the new career structure for the teaching profession that was agreed earlier this year by teachers organisations, the Convention of Scottish Local Authorities and the Scottish Executive. The bill deletes from statute all references to assistant head teachers and suspends the appointment procedures that are outlined in sections 11 and 15 and in schedule 2 of the School Boards (Scotland) Act 1988.

Without following the proposed course of action, we would trigger existing selection and appointment procedures. That would demand a significant amount of time and would result in unnecessary bureaucracy for local authorities and school boards. In turn, that could delay the efficient introduction of the new career structure. We specified that the suspension should be for the duration of the job-sizing exercise. We expect that to end in August 2003.

Members will know that a consultation paper, including a draft bill, was issued on 5 July 2001. That document was circulated to all educational and other organisations that may have an interest in those detailed areas.

In advance of the publication of the consultation paper, members of the bill team met the Scottish School Boards Association to discuss the proposed changes to school board legislation. Agreement was reached on the proposed changes. The 26 consultees who sent in a written response welcomed the proposed measures. Those responses were predominantly from local authorities and teachers organisations. Some issues of detail were raised; indeed, those issues were debated in some depth by the Education, Culture and Sport Committee when it discussed the general principles of the bill with the Minister for Education, Europe and External Affairs, Jack McConnell, recently. I have no doubt that those issues will be discussed again today. An appropriate reassurance can be provided in each case. It is for those reasons that I am pleased to commend the general principles of the School Education (Amendment) (Scotland) Bill.

I move,

That the Parliament agrees to the general principles of the School Education (Amendment) (Scotland) Bill.

15:41

**Michael Russell (South of Scotland) (SNP):** I declare an interest, as my wife is one of the people who will be affected by the legislation. She is an assistant head teacher and will disappear—not physically, but in terms of her title.

I am sorry that Mr McConnell is not here today as it would have given us an opportunity to bid him farewell in—who knows?—his last role as Minister for Education, Europe and External Affairs. As he was the minister who presented the bill to the Education, Culture and Sport Committee and answered the committee's questions, I am surprised and disappointed that he has not come today to carry on with the task.

I want to address three issues, the first of which is the drafting. Nobody appears to have seen the problem with the previous bill—it went past all of us. Mr Monteith is nodding sagely. Even the eagle-

eyed among us did not notice the difficulty, although its results quickly became apparent. I had an early case, which arose in South Ayrshire.

There is a general point about drafting that needs to be addressed. The nature of the way in which ministers and civil servants approach the issue of drafting when talking to committees, particularly at stage 2, or at stage 3 in the chamber, is confrontational. There is a defensiveness about the drafting of any legislation. The shortage of parliamentary civil servants who can assist members with drafting issues is severe, as a result of which ministers and the Parliament are in the hands of civil servants. It is obvious that drafting mistakes were made.

There is another worrying case in the same bill. I am glad to see John Farquhar Munro here because, during the debate on the Standards in Scotland's Schools Bill, he and I proposed an amendment—amendment 34—on Gaelic education. It was resisted by the then Deputy Minister for Children and Education, Peter Peacock, who said:

“Amendment 34 seeks to place duties on ‘education authorities’, in the plural, yet authorities, in the plural, are not a recognised legal entity. It is therefore not possible to place a duty on them.”—[*Official Report*, 7 June 2000; Vol 7, c 23.]

I presume that that was a civil service instruction, on which the minister was briefed.

Subsequent research reveals that the Standards in Scotland's Schools Bill contained 22 references to education authorities in the plural. Five of its sections included the words “Education authorities shall”. It was therefore a combative and defensive attack—presumably by the civil servants who had drafted it—on an attempt to amend the bill, the basis of which turned out to be completely untrue. I exonerate Mr Peacock from any charge of misleading the chamber, but it illustrates the way in which civil servants, in briefing their ministers, prepare to do battle in the chamber against reasoned discussion of bills and the way they are drafted.

That combative nature unfortunately showed itself in the committee's discussion of the School Education (Amendment) (Scotland) Bill. As noted in the *Official Report* of the Education, Culture and Sport Committee, Mr McConnell said with regard to COSLA's reservations about the bill, particularly the section on placing requests:

“There is no support in the Executive at a professional level for the view that has been expressed.”—[*Official Report, Education, Culture and Sport Committee*, 23 October 2001; c 2678.]

That is not the question that Mr McConnell was asked, and it is not the question that we should ask here, but if education authorities—without any

axe to grind—and COSLA still have reservations about the way in which the bill is drafted and about what may happen when seeking placing requests, it is important that those concerns are addressed. It is not important to defend the amour-propre of civil servants or the words that appear on the purple page of the published bill; it is important, for heaven's sake, at the second attempt, to get it right. I therefore appeal to whoever is the minister—it may even be Mr Stephen—to enter into constructive dialogue with the committee at stage 2 about the exact drafting of the section on placing requests. We cannot afford to get it wrong a second time.

There are genuine questions about whether the section on McCrone goes far enough. The McCrone job-scoping exercise may have to go further and deal with principal teachers. Although the bill deals with deputy heads and deputy principals, principal teachers in departments will be excepted by the job-scoping part of the McCrone exercise, and the statutory obligations relating to their appointment must be addressed. It would be best to consult committee members and members of the Parliament about the exact detail of that exercise at stage 2, rather than entering into an unnecessary battle.

The bill restores the status quo only in terms of placing requests. It is not a revolution and there is no new thinking. It simply restores the status quo as we believed it to be. There are big questions about the placing of young children in schools. There are questions about whether we in Scotland have the appropriate starting age for school, about the transition from nursery to primary education, about whether there should be rolling enrolment in primary schools and about whether the old concept of having a cut-off date is still relevant. All those questions are worthy of debate. The bill does not and cannot address them and we should not lose sight of the fact that what this bill does is tidy up legislation and make allowances for the McCrone settlement. We are not progressing ideas in education a whit. We should return to the chamber to do that.

Those points aside, I and my party colleagues have been pleased to play an important part in the early stages of the bill and we will continue to do that. I do not think that the bill will detain the chamber or the committee for long, but I hope that when we consider it at stages 2 and 3 we will take on board fully the views of local authorities and of COSLA and will make absolutely certain that we make no further mistakes. Perhaps the Parliament will also take on board the fact that drafting is a matter that we should all be involved in, rather than something that should be the focus of another war between the Executive and the Parliament.

15:48

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** I am pleased to be able to give my party's support to the School Education (Amendment) (Scotland) Bill. It is vital that the unfortunate error in the wording of the Standards in Scotland's Schools etc Act 2000 does not deny the statutory right of parents of children just below school age to make a placing request. It is right that the bill be used to allow for the adjustments to existing legislation that are required following the McCrone pay and conditions settlement.

I attended the Education, Culture and Sport Committee when it took oral evidence and considered written evidence. Having considered the matter, I have only one question for the minister. Can he assure me that the rights of parents of children commonly known as rising fives will be accommodated in the bill? We had an assurance from the minister when the committee first took evidence but, as Mike Russell said and as is mentioned in the Scottish Parliament information centre briefing, evidence from the City of Edinburgh Council, Glasgow City Council and COSLA raised doubts. It is fair to say that, even after questioning, those doubts remained. Mr McConnell said that a further statement could be made on the matter. If it can be shown to his satisfaction that the problem of rising fives will not be solved by the bill, will the minister introduce amendments at stage 2 or will he accept amendments from members of the committee?

As Mike Russell has dealt adequately with my other points, there is no need to detain the Parliament any further. It would not be good for children and parents of Scotland—or for the Parliament—if a further drafting error was made. It would do only damage if we had to pass another bill on another occasion to correct any defects in this bill. If we make further mistakes and require further legislation because legislation has been rushed through Parliament and amendments that seek to improve bills have not been accepted, the case for a second chamber will become irrefutable. The prospect of more Scottish politicians is frightening.

We support the bill.

15:50

**Cathy Peattie (Falkirk East) (Lab):** The bill is not large; it covers little more than one side of A4. It is not complex—its objectives are straightforward—nor is it contentious, but it is important. The bill will enable parents of children aged between four years six months and five years to make placing requests to start primary school and will enable existing assistant head teachers to be regraded as deputy head teachers without following advertisement and appointment



procedures.

The issue of placement age arises from changes introduced by the Standards in Scotland's Schools etc Act 2000. The School Education (Amendment) (Scotland) Bill seeks to restore the situation that existed with regard to children's ages before that act was passed. I drew the minister's attention to the issue when the Education, Culture and Sport Committee considered the Standards in Scotland's Schools etc Bill and I welcome the fact that this bill tidies up the loose ends created by that legislation.

The School Education (Amendment) (Scotland) Bill will restore parents' right to make placing requests for children who qualify as being of school age on the school commencement date in August because their fifth birthday falls before the following March.

In general, the bill has been well received by local authorities, which have made submissions in its favour. As we have already heard, COSLA expressed concerns about the bill's wording. I agree with Mike Russell that we must ensure that amendments are made and that the wording is right so that such a bill does not need to come before Parliament again. I urge the minister to respond to that point.

I also note that special educational needs are not addressed in the bill and ask the minister to make a statement on the matter. Indeed, Jack McConnell agreed to do so at a meeting of the Education, Culture and Sport Committee. As for the restructuring of posts, it is planned that assistant head teachers will be redesignated as deputy head teachers and that there will no longer be a post of assistant head teacher.

The School Boards (Scotland) Act 1988 stipulates that when a new post is created, it must be advertised, but that will not be the intention of the restructuring that will commence next year. The situation needs to be put right. Jobs that already exist are being performed by incumbents who are already all but in the posts; it is simply a question of redesignating the posts. The bill also acknowledges that. The readvertisement of posts would be unnecessary and costly.

Subject to the assurances that are sought on the bill's wording, particularly on the issue of special educational needs, I commend the bill to the chamber on behalf of the Education, Culture and Sport Committee.

15:53

**Mr Kenneth Macintosh (Eastwood) (Lab):** I see that we are all queuing up to speak in this debate.

It is good to see so many of my old colleagues from the Education, Culture and Sport Committee;

it is just like a reunion. It has been mentioned that the Standards in Scotland's Schools etc Act 2000 has had the unintended consequence of restricting the right of children under five to placing requests. As one of the original members of the committee, I am happy to do my penance this morning. [MEMBERS: "Afternoon!"]

Members will appreciate that the Standards in Scotland's Schools etc Act 2000 was the first taste of legislation for many of us who had entered Parliament. We were all new boys and girls. With hindsight, I see that there are further changes to the act that we were unable to make at the time but that I would like to make now. Despite the Executive's subsequent measures to address the issues of sustainable development and Gaelic-medium education—which Mike Russell referred to—we all missed an opportunity with the Standards in Scotland's Schools etc Act 2000.

Placing requests were a third issue that we discussed briefly at the time. The sting has gone out of the debate nationally, mostly because local authorities have tried to make the system work better, but the issue is still big in my Eastwood constituency. There are up to 1,000 placing requests each year, only two thirds of which are settled to the satisfaction of parents and pupils.

Many families feel denied and frustrated by the system and to put 1,000 young people through the process cannot be healthy. Choosing a school is an anxious time for all involved and is often seen—rightly or wrongly—as a life-shaping or career-shaping decision. For those who are unsuccessful, the decision leaves dissatisfaction that can do a pupil no good as he or she proceeds with their education.

The costs and time involved in processing requests—far too many of which end up in the sheriff courts—must provide grounds for concern at a time when government at all levels is looking to make efficiencies. The system needs to be improved and overhauled. That may not require further legislation, but direction from central Government would be welcome.

Many improvements that have been made have come from local authorities themselves. I give the example of East Renfrewshire Council from two weeks ago, although I will not go into detail. To avoid unnecessary conflict and misunderstanding, my local council has further qualified the rules governing catchment areas and feeder primaries. The rule changes had to be tested in the courts, but I hope that they will bring greater clarity and certainty to the process. Parents and pupils will be in full possession of the facts at all stages of a child's education and will be able to make an informed choice as a result. They continue to enjoy the right to choose which school to attend, but they are aware of the criteria on which their

placing request will be judged.

I mentioned that my local authority has tested those rules in the court, but it would be fairer on all concerned and certainly less costly for each individual council if national guidelines or the proposed legislation were used to create a common set of rules throughout Scotland.

Although I support placing requests, we should not pretend that they do not come at a cost. There should be an element of choice and no one should be forced to attend a school that they do not want to attend, but not everyone can exercise that choice. For example, how many families without a car exercise their right to choose? If all parents who are most likely to play an active role or take an interest in their child's school opt to go elsewhere, the result and the cost can be a sink school with low esteem that fails the local population. What infuriates staff, pupils and parents at schools when pupils choose to exercise their right is the ignorance on which decisions are sometimes based. I want reforms that take the confrontation out of the placing request system and improvements to the dissemination of information.

It has been suggested to me that no parent should be able to put in a placing request until they have visited their local school and spoken to the head of the school or the staff. A school's reputation can be made or broken on the back of rumour, half-truth, innuendo and myth that have no basis in fact. Pupils who would almost certainly perform better in their local school get carted off to inappropriate and alien establishments to be hotheaded through an exam-driven system rather than developed as fully rounded individuals and citizens in their own neighbourhoods.

A number of other issues should be raised that may not be dealt with in the bill, but the minister should consider them.

15:58

**Colin Campbell (West of Scotland) (SNP):** My final son was brought up by his two parents and his two older brothers, so he was about 25 by the time he was four. In the opinion of his nursery school teacher at the time, at four years and five months old, he would have been perfectly able to go to school. The new system will not change that for people in a similar situation.

I was interested when Nicol Stephen said that we are reverting to a simpler system of administration in education. I have a sense of *déjà vu*. Assistant head teachers were introduced when I was an ambitious and impecunious principal teacher. I thought that I might be able to go directly from principal teacher to head teacher and avoid the role of depute head—in those days, that

was possible. To my absolute dismay and disgust, the post of assistant head teacher was introduced. Obviously, that was a result of post-war expansion and raising the school-leaving age. I applied for the first diet of posts in my school, failed and never applied again, so I managed to miss that out.

Head teachers enjoy some prestige and status in the public eye and in the eyes of their staff too if they are really successful—although that is pushing things a bit. Depute heads have the privilege of running the school in the head's absence, to compensate them for the drudgery that fills the rest of their days, doing all the jobs that the head does not want to do. AHTs are further down the pecking order—not far enough up the system to enjoy much prestige, but far enough down the management chain to inherit a plethora of jobs, some of which are vital and others which are created by administrative bean counters further up the system. Sometimes, jobs are mind-blowingly time-consuming and dull. Assistant head teachers fulfil a necessary function in the system but the number of pupils that triggered their introduction has fallen radically and the system must be changed.

I do not suppose that anyone will mind if I mention four assistant head teachers by name and let my personal knowledge of and thanks to them represent, in a modest way, the gratitude of the Scottish Parliament to the holders of a post that is to be consigned to history.

The late Mae Johnston at Greenock Academy moved from being woman adviser—an old-fashioned category—to assistant head teacher. One of the old school and respected by all, she was in my history department and, while outranking me in the management system, played to perfection her subordinate role in my department. She had a difficult role to play that is not often understood by people outside education. In Easterhouse, Jimmy Allan was conscientious and I always failed to meet his high standards of punctuality; Miller Frongigoun was the epitome of compassion; and Dugald MacIntyre had a laconic sense of humour and a dedication to piping, which he practised at lunch time two floors above my office. I give my personal thanks to those individuals and, in so doing, I thank every other assistant head teacher in Scotland, appreciated or unappreciated by those around them.

On the report, I am sure that all assistant head teachers will be happy to be upgraded to the status of deputy head teacher without interview, as I would be if I were in their shoes.

16:01

**Trish Godman (West Renfrewshire) (Lab):** I have come to the chamber before with so-called

technical or drafting bills from the Local Government Committee. They are non-controversial but necessary.

When I was a councillor, many parents came to my surgeries with problems relating to the legislation on placing requests. An attempt was made to clarify the situation in the Education (Scotland) Act 1980 but, as we have heard this afternoon, the situation is still woolly and unclear. The 1980 act appears to have been written by a Philadelphia lawyer—there is amendment after amendment after amendment and only a Philadelphia lawyer could understand it. It was often difficult for parents to place a child in the same school as their sibling and that difficulty was not taken into account. Members can imagine what that meant for the parents.

An amendment to the 1980 act meant that the local authority had a duty to place a child in a school requested by parents, with some exceptions, and the right of appeal was included. However, no particular age was stated, which led to even more confusion. Reading the reports, we can tell that the sheriffs were confused—perhaps that amendment was written by the same Philadelphia lawyer.

Most of the appeals were based on the interpretation of the word “child”. After the act was amended again, there was still confusion because of the use of the term “school age”, which disqualified children who were under five. The situation needed to be cleared up and that is what we are doing today. The bill is, as I said, a small but beautiful technical bill. It will affect many children and parents and is therefore necessary. I hope that it will clarify matters for councils and parents.

Another aspect of the bill relates to the post of assistant head teacher, which will cease to exist. The post will be subsumed into the post of deputy head teacher. That will mean that local authorities will have more flexibility in their arrangements for promoted staff in schools and that some of the existing restrictions will be removed.

The report, “A Teaching Profession for the 21<sup>st</sup> Century” provided a new career structure to be implemented and the bill relates to that. The McCrone report recommended those changes in structures in schools.

The Education, Culture and Sport Committee’s report stated that the committee was concerned that the placing request part of the bill might not achieve the stated objective because it might not be as clear as we hoped that it would be. However, in his evidence to the committee, the minister said that he believed the provisions in the bill to be technically correct. The minister undertook to inform the local authorities of that

and to reassure them with a statement of clarification. Like others, I am not absolutely happy with that. That issue needs to be revisited, given the history of this part of the bill. Mike Russell has said that as well and I am sure that amendments to do that will be lodged at stage 2. Given the history of this part of the bill, let us hope that the amendments can clear up the situation. I am a wee bit dubious about using the word “history” today but I am glad that I got past it without making a terrible mistake.

The minister also said that he believed that local authorities were adequately funded to deal with the outcomes of the McCrone settlement. He indicated, however, that, at stage 2, he would return to the issue of the advertising of the post of principal teacher. I know that the Convention of Scottish Local Authorities has raised that with the committee. Given the confusion in the past bills, let us hope that we will once and for all clarify for parents the provisions on placing requests. The McCrone recommendations are good. The settlement involved a lot of hard work by teaching professionals, trade unions and the Scottish Executive. The new bill will start the process of implementing that settlement. I urge members to agree the general principles.

16:05

**Mr Keith Harding (Mid Scotland and Fife) (Con):** As the Conservative local government spokesman, I am pleased to contribute to the debate. The bill, as members have already said, endeavours to resolve a problem in the Standards in Scotland’s Schools etc Act 2000, which unintentionally removed the statutory right of some parents with children just below school age to make a placing request. The bill should restore that right to parents of those children who qualify as being of school age on the school commencement date in August because their fifth birthday falls before the following March. We welcome the provisions in the bill to allow the implementation of the McCrone agreement and are pleased to support the motion.

16:06

**Bill Butler (Glasgow Anniesland) (Lab):** I will not detain members too long. Given the tenor of the debate so far and the fact that there are no amendments, it is obvious that this is an occasion on which all MSPs are able to support the general principles of a bill. The bill is not designed to alter the law in any profound manner but to clarify an issue that arises from the Standards in Scotland’s Schools etc Act 2000 and to bring the legislation into line with the McCrone settlement, which was brokered earlier this year.

I am sure that we all agree that such provisions

are not the stuff of passionate debate. Nevertheless, the provisions clarify the law on placing requests for children under school age and recognise a particular ramification of the pay and conditions agreement between the teaching unions and local authorities that was arrived at after intensive negotiation.

The proposed abolition of the post of assistant head teacher is a necessary provision. It will allow the full implementation of the McCrone settlement and thus permit the greater latitude that is necessary for the arrangements for promoting staff in schools. It will also ensure that some of the existing restrictions can be removed. I am aware that the minister indicated at the Education, Culture and Sport Committee that the national advertising of principal teacher posts and the assimilation of assistant principal teachers into the new structure would be returned to at stage 2. Those issues do not affect the general principles of the bill. It therefore makes good sense to return to them at a later stage.

I know that Mr Russell also raised concerns at the committee regarding the possible financial and operational impact of the abolition of the post of assistant principal teacher, especially in rural areas. As there is no amendment from the SNP, I take it that Mr Russell is content with the assurances that he received from the minister at the committee that the McCrone settlement had strong support from the education sector, and that central to the agreement was an understanding with local authorities, including those that cover rural areas, that the additional funding would be adequate. The minister also offered the view that the new flexible structures would be of special benefit to small rural schools. Again, that is all sensible, welcome and necessary.

The other area that the bill covers is placing requests. It deals with an overly bureaucratic, inflexible and unintended consequence of the Standards in Scotland's Schools etc Act 2000, which prevents parents whose children start school slightly early from making the appropriate placing request. That is manifestly illogical. The bill will clear up that anomaly.

The bill may not be particularly exciting or newsworthy, but it is necessary and worth while. It exemplifies the way in which the devolved Parliament can deal directly with matters large and small that impact on the lives of the people of Scotland. I support the motion.

16:09

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** The minister will sum up at the end. I will give more of a summing-up speech than a speech for the middle of the debate. I will

make several comments, but I will not take long.

I congratulate Kenneth Macintosh on what he said. He is still in the chamber. He gave a succinct summary of problems with placing requests. I have seldom heard them put better. I am sorry that Mike Russell has left the chamber. His comments were rather wide-ranging—we heard about Gaelic. Colin Campbell talked about piping. Mike Russell's description of the process does not match up with the way that I saw it when I was a member of the Education, Culture and Sport Committee. Of course amendments were lodged, but the process was not as confrontational as Mike Russell painted it.

The point that comes out of the debate is that it behoves all committee members to get their act together. We were, after all, new boys and girls then in terms of drafting and debating amendments. I would not say that my experience with the ministers or the civil servants was bad. I do not want that to be the general impression.

The bill puts two things right; it is as simple as that. As Bill Butler said, that has been done in our devolved Parliament in an open, accountable and thorough way. I suggest that that is different from what went before. Imagine if the matter had arisen at Westminster. There would not have been the type of discussion that we have had here today. When the bill gets to stage 2, there will be further examination of it.

I will conclude my remarks. I am on my feet in place of Ian Jenkins. It seems to be the style these days that Stone stands in when Jenkins or Lyon or someone else is away. I pledge the support of the Liberal Democrats for the bill and I commend it to the chamber.

16:11

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** I was a wee bit concerned when my colleague Ken Macintosh said in his contribution that this debate was like a reunion. I was reminded of the recent press coverage of friendsreunited.co.uk, which is a new website for those who wish to pay compliments to former teaching members, and who now find themselves creating lots of problems in the courts throughout the United Kingdom. I await my e-mail with interest. I will see if anything libellous is available there when I get back.

At the committee, people raised the sensitive and perhaps overly complex issue of the placing requests, which members have touched on. Our intention, which I hope that the ministerial team will address, is not to make that process any more complicated than it is already. We want to modify something that, as Mike Russell suggested, seems to have been a problem in the drafting.

Mike Russell was right to touch on how we engage in that drafting process in a genuine partnership in which we offer our experience as committee members and civil servants bring an understanding that we should address seriously issues that local authorities and individuals who are involved in placing requests raise with us.

I hope that those issues will be addressed at stage 2 of the bill, although they might be addressed prior to that. We are in broad agreement with the intention of the bill to restore the right of parents to make placing requests for children who qualify as being of school age on the school commencement date in August. That is fine and worth while and we hope that the minister addresses the wording of that section in the bill, which has been noted by a number of members.

The other big issue that was a shared concern of all members of the committee was how to deal with the issue of AHTs. I was interested to hear Colin Campbell speak about the trajectory of his career, from his humble origin as a teacher—I understand—to principal teacher, deputy head teacher, assistant head teacher and head teacher. He has never looked—it is clear—at the byzantine rules for qualifying as a school janitor. If he tried to unravel those rules at a GMB union meeting, he would find them of greater complexity than any that he addressed on the issue of the definition of the AHT post in the bill.

We are broadly in agreement with the proposed deletion of the post of AHT and the issue of the advertising of senior posts. We welcome the fact that section 2 of the bill will remove unnecessary references in the 1988 Act to assistant head teacher. The knock-on effect of that debate is to open up further debates that we still need to have clarified by the ministers concerning the issue of the general advertising of other posts, particularly PT posts. We welcome the minister's commitment to try to return to that matter at stage 2. We should move forward in the spirit of openness and accountability, which is the characteristic theme that we seem to be debating at the moment.

It is difficult to make this issue interesting, but it is an important issue for the communities that we serve. Every member in the Parliament has probably had immense numbers of letters, particularly at school term time, not only about the suitability of schools that parents want their children to go to, but about the kind of arbitrary rules that are operated sometimes at the local authority or school level, or within learning communities, which many local authorities are developing. Anything that we can do to clarify that and to minimise that bureaucracy will be welcome.

The consensus of the committee members was that they welcome those developments and the tidying-up that is being proposed. However, we

need to address one or two issues at stage 2. The Education, Culture and Sport Committee recommends that the general principles of the bill be agreed to.

16:15

**Murdo Fraser (Mid Scotland and Fife) (Con):**

The chamber is filling up, so word has obviously got out about the shortness of the debate. My colleagues Brian Monteith and Keith Harding have succinctly set out the Conservative position on the bill. It is open to me to waffle on for four minutes about matters tangential to the bill or to seek to emulate Colin Campbell, by name-checking my former teachers. Indeed, I met one of them earlier today. My maths teacher, Miss Forbes, who is down from Inverness on a trip, appeared in the public gallery. I shall therefore take the opportunity to name-check her. [MEMBERS: "Where is she?"] Sadly, she is no longer with us. [*Laughter.*]

The Scottish Conservatives agree with the general principles of the bill for the reasons set out by my colleagues. I shall not detain the chamber longer.

**The Deputy Presiding Officer:** Before calling the next speaker, I indicate that it looks very likely that we will finish the debate early.

16:16

**Irene McGugan (North-East Scotland) (SNP):**

In contrast to many stage 1 speeches, those of this debate have confirmed that the School Education (Amendment) (Scotland) Bill should turn out to be a fairly straightforward piece of legislation, provided, as Mike Russell has said, that the Executive is prepared to listen and to become involved in constructive dialogue.

The intention of section 1 is immediately apparent. An unintended consequence of the Standards in Scotland's Schools etc Act 2000 was to remove the right of parents to make placing requests for children who are aged four in August but whose birthday falls prior to the following March. The Minister for Education, Europe and External Affairs is now aware of the concerns that interpretation of the current working might not bring the desired objective. In evidence to the Education, Culture and Sport Committee, the minister is on record as saying that he is of the view that the bill is correctly worded. However, clarification of that is undoubtedly required at stage 2.

On section 2, we have no difficulty in agreeing to the suspension of the application of the School Boards (Scotland) Act 1988 for the purposes of the job-sizing exercise, which is part of the agreement encapsulated in "A Teaching Profession for the 21st Century". We endorse the

continued involvement of school boards in the head teacher and deputy head teacher appointments for any new posts that are not part of the job-sizing exercise. Likewise, we have no objection to the removal of unnecessary references in the 1988 act to “assistant headteachers”.

COSLA representatives pointed out that implementing the McCrone settlement as currently constituted will mean that any changes made to the principal teacher posts in the job-scoping exercise will require the posts to be nationally advertised. COSLA hopes that that will not be the case. If it were to be the case, that would be contrary to what anybody expected. It will severely reduce the flexibility to implement McCrone in a rational, consensual way, as well as increasing costs and introducing delay. Additionally, the requirement to advertise nationally is anomalous when compared with other local authority posts at the same level. Stage 2 must provide clarification on that, and one suggestion has been to delete section 87A of the Education (Scotland) Act 1980.

Notwithstanding Bill Butler’s remarks, I wish to mention the situation of rural authorities, as there are funding implications to the job-scoping exercise. Some rural authorities are saying that the agreement has given them some difficulties. I hope that the Executive will consider sympathetically that issue to allay those authorities’ concerns.

I commend the assurance that the minister gave at the committee that the issue of recorded pupils and placing requests for them will be returned to and considered. A clear, reassuring statement on the legislative provisions in place would be welcomed by the families concerned, by local authorities, and, I suspect, by the Parliament.

**The Deputy Presiding Officer:** I call Nicol Stephen to close for the Executive.

16:19

**The Deputy Minister for Education, Europe and External Affairs (Nicol Stephen):** I welcome the high level of interest in my closing speech that is evident in the chamber. [*Laughter.*] That was not the case throughout this afternoon’s debate.

Mike Russell’s uncharacteristically uncharitable comments about the absence of the Minister for Education, Europe and External Affairs—which has now been remedied—would have been slightly more telling if Mr Russell had managed to stay in the chamber throughout the debate. However, I am happy to give the member the reassurance that he sought in relation to the drafting of the bill. That matter will be examined in an open and inclusive way. If additional reassurance can be given, it would be appropriate

to do so.

Several issues of detail were raised in the debate. Cathy Peattie made a point about the application of placing request legislation to children who have a record of needs. The position of those children as regards placing requests is different from that of the children who would be covered by the legislation that we are considering today. Because of the particular circumstances of children with a record of needs, parents’ statutory right to make a placing request for their children is not restricted to school-age children. We recognise that further clarification of the position of children with a record of needs would be beneficial. We are considering providing a clear statement that will accompany the bill, but will not be part of it, at later stages of the bill’s passage.

**Michael Russell:** I accept the assurance that Mr McConnell gave to the Education, Culture and Sport Committee that a statement of clarification would be provided, along with the assurance that the minister is giving now. However, Trish Godman made a very important point. It would be much better for the bill to be properly drafted and easily understood than for it to be accompanied by further documentation. Local authorities and others have expressed the view that it is possible to improve the drafting of the bill. I accept that this is a matter for debate, but members from all parties have indicated that they would rather have the bill properly drafted at stage 2 than have a statement of clarification or additional documentation provided.

**Nicol Stephen:** I understand the point that Mike Russell makes. In the review of assessment that is currently under way, for example, our aim is to simplify matters, to make the position clearer to parents and to ensure that all children are treated in the same way. That seems not to be the case at the moment. I give the undertaking that we will consider the issue that Mike Russell has raised.

The Education, Culture and Sport Committee made reference to representations that had been made by two councils: City of Edinburgh Council and Glasgow City Council. Those authorities voiced concerns that section 1 of the bill as drafted does not accurately address the problem that we are trying to remedy and that, as a consequence, the Executive’s policy intention may not be met. They questioned whether the provisions of the bill would allow parents to make placement requests for children under four years and six months.

We were aware of those representations and, following discussion with Executive solicitors, we remain of the view that the bill’s provisions are technically correct. We intend to inform both the authorities concerned, and all other local authorities, of our interpretation of section 1 of the bill, with a view to reassuring them that the

Executive's policy intention is met by the bill. We are confident that it is. However, if that proves not to be the case, we will consider the position further. I agree with Mr Monteith that clarity and certainty are important.

Another issue of concern is the position of principal teachers, as opposed to that of assistant head teachers. Some local authorities have suggested that it would be appropriate to suspend the requirement for the national advertisement of principal teacher posts, to facilitate the successful and timely completion of the job-sizing exercise. Some authorities have also suggested that such a suspension is necessary to address the possibility that some assistant principal teachers could ask for their posts to be job-sized to that of principal teacher and, if successful, assimilated to the new career structure for promoted staff. We believe that our approach to the post of principal teachers needs to be significantly different from our approach to that of assistant head teacher. Following the job-sizing exercise, the post of assistant head teacher will no longer exist, whereas the grade of principal teacher will remain as part of the new career structure.

Members have spoken about the position of assistant principal teachers. In August 2003 the assistant principal teacher grade will be abolished. The agreement clearly states that, for salary purposes, existing post holders will be placed on the new chartered teacher scale.

We have been advised that those matters do not require legislation. However, to assist the progress of the bill and the arrangements for the new career structure, and so that we can clarify and secure a shared understanding of the best way to take those matters forward, officials will follow up those points with our partners in the Scottish negotiating committee for teachers—in other words, with teachers organisations and with COSLA. None of the issues concerning school placing requests and the posts of principal teacher and assistant principal teacher affect the bill's general principles.

From the start, we have held the view that the School Education (Amendment) (Scotland) Bill is uncontroversial and straightforward. Everyone would agree that today's debate has reaffirmed that judgment. We are open to making detailed changes through amendments at stage 2. The responses to the consultation exercise that took place earlier this year were very positive and, in the main, the proposed legislative changes were welcomed. The proposals have also been welcomed by all parties in the chamber. I urge members to support the motion.

## Parliamentary Bureau Motion

16:26

**The Deputy Presiding Officer (Patricia Ferguson):** We move to consideration of Parliamentary Bureau motion S1M-2443, on approval of Scottish statutory instruments.

*Motion moved,*

That the Parliament agrees that the following instruments be approved—

the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 8) (Scotland) Order 2001 (SSI 2001/374);

the Food Protection (Emergency Prohibitions) (Paralytic Shellfish Poisoning) (East Coast) (No 2) (Scotland) Order 2001 (SSI 2001/387);

the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 9) (Scotland) Order 2001 (SSI 2001/388); and

the Food Protection (Emergency Prohibitions) (Diarrhetic Shellfish Poisoning) (Orkney) (Scotland) Order 2001 (SSI 2001/391).—[*Euan Robson.*]

## Motion without Notice

**The Deputy Presiding Officer (Patricia Ferguson):** Unless members disagree, I am minded to accept a motion without notice from Euan Robson to bring forward decision time. Do members agree to that?

*Members indicated agreement.*

*Motion moved,*

That S1M-2455 be taken at this meeting of the Parliament.—[*Euan Robson.*]

*Motion agreed to.*

*Motion moved,*

That the Parliament agrees under Rule 11.2.4 of the Standing Orders that Decision Time on Thursday 15 November shall begin at 4.26 pm.—[*Euan Robson.*]

*Motion agreed to.*

## Decision Time

16:26

**The Deputy Presiding Officer (Patricia Ferguson):** There are seven questions to be put as a result of today's business. The first question is, that amendment S1M-2445.1, in the name of Roseanna Cunningham, which seeks to amend motion S1M-2445, in the name of Jim Wallace, on the Anti-terrorism, Crime and Security Bill—UK legislation—be agreed to. Are we agreed?

**Members:** No.

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

### FOR

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 McGugan, Irene (North-East 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)  
 Russell, Michael (South of Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)

Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 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)  
 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)  
 MacLean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLetchie, David (Lothians) (Con)  
 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)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, 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, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)  
 Young, John (West of Scotland) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 26, Against 75, Abstentions 0.

*Amendment disagreed to.*

**The Deputy Presiding Officer:** The second question is, that motion S1M-2445, in the name of Jim Wallace on the Anti-terrorism, Crime and Security Bill—UK legislation—be agreed to. Are we agreed?

**Members:** No.



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

**FOR**

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 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)  
 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)  
 MacLean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLetchie, David (Lothians) (Con)  
 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)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, 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, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 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)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 McGugan, Irene (North-East 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)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (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)

**ABSTENTIONS**

Harper, Robin (Lothians) (Green)

**The Deputy Presiding Officer:** The result of the division is: For 75, Against 30, Abstentions 1.

*Motion agreed to.*

That the Parliament recognises the urgency of enhancing anti-terrorist capability and security in the current international situation and agrees that the provisions of the Anti-Terrorism, Crime and Security Bill specified in the Scottish Executive's memorandum that relate to devolved matters should be considered by the UK Parliament.

**The Deputy Presiding Officer:** The third question is, that motion S1M-2444.2, in the name of Bruce Crawford, which seeks to amend motion S1M-2444, in the name of Ross Finnie, on the Executive's vision for the protection and promotion of Scotland's natural heritage, be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 McGugan, Irene (North-East 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)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (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)

**AGAINST**

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 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)  
 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)  
 MacLean, Kate (Dundee West) (Lab)

Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLetchie, David (Lothians) (Con)  
 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)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, 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, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)  
 Young, John (West of Scotland) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 31, Against 75, Abstentions 0.

*Amendment disagreed to.*

**The Deputy Presiding Officer:** The fourth question is, that amendment S1M-2444.3, in the name of John Scott, which seeks to amend motion S1M-2444, in the name of Ross Finnie, be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Aitken, Bill (Glasgow) (Con)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLetchie, David (Lothians) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)

Tosh, Mr Murray (South of Scotland) (Con)  
 Young, John (West of Scotland) (Con)

#### AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harper, Robin (Lothians) (Green)  
 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)  
 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)  
 MacLean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (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, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### 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, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 McGugan, Irene (North-East 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)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Stevenson, Stewart (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 Deputy Presiding Officer:** The result of the division is: For 15, Against 62, Abstentions 29.

*Amendment disagreed to.*

**The Deputy Presiding Officer:** The fifth question is, that motion S1M-2444, in the name of Ross Finnie, on the Executive's vision for the protection and promotion of Scotland's natural heritage, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (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)

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)  
 MacLean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (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, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

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

#### 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, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Ms Margo (Lothians) (SNP)

Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 McGugan, Irene (North-East 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)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (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 Deputy Presiding Officer:** The result of the division is: For 60, Against 15, Abstentions 31.

#### *Motion agreed to.*

That the Parliament supports the Scottish Ministers' intention to come forward with legislative proposals to protect and promote Scotland's natural heritage; notes the widespread support for this proposed reform, and agrees that improved protection of nature requires a combination of new legislation and integrated land use policies and incentives currently being developed by the Executive.

**The Deputy Presiding Officer:** The sixth question is, that motion S1M-2275, in the name of Jack McConnell, on the general principles of the School Education (Amendment) (Scotland) Bill, be agreed to.

#### *Motion agreed to.*

That the Parliament agrees to the general principles of the School Education (Amendment) (Scotland) Bill.

**The Deputy Presiding Officer:** The seventh question is, that motion S1M-2443, in the name of Tom McCabe, on the approval of Scottish statutory instruments, be agreed to.

#### *Motion agreed to.*

That the Parliament agrees that the following instruments be approved—

the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 8) (Scotland) Order 2001 (SSI 2001/374);

the Food Protection (Emergency Prohibitions) (Paralytic Shellfish Poisoning) (East Coast) (No 2) (Scotland) Order 2001 (SSI 2001/387);

the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 9) (Scotland) Order 2001 (SSI 2001/388); and

the Food Protection (Emergency Prohibitions) (Diarrhetic Shellfish Poisoning) (Orkney) (Scotland) Order 2001 (SSI 2001/391).

## Rural Economy

**The Deputy Presiding Officer (Mr George Reid):** The final item of business today is a member's business debate on motion S1M-2260, in the name of Annabel Goldie, on the rural economy. The debate will conclude without any question being put.

### *Motion debated,*

That the Parliament notes the economic challenges confronting the rural and more remote parts of Scotland and recognises the specific implications of the Aggregates Tax for the quarrying industry in those areas.

16:35

**Miss Annabel Goldie (West of Scotland) (Con):** On behalf of members, I welcome the representatives of the British Aggregates Association and the quarrying industry in Scotland, who are in the public gallery.

Local economies do not come much more fragile than those that support the rural and more remote parts of Scotland. Fuel tax, transportation costs and fewer economic levers combine to make those economies less tough and robust and more vulnerable than economies elsewhere. Many of those remote and rural areas depend on tourism and agriculture, but 2001 has been a bleak black year for those sectors.

The foot-and-mouth epidemic was particularly devastating in south-west Scotland and the Borders; it directly killed off some businesses and was a body blow for the rest. Tourism was a casualty and although the Scottish Executive's measures were welcome, there are continuing concerns over whether help is going directly to where it is needed.

I do not doubt that the terrorist atrocities of 11 September have had a further effect on tourism, which is the industry that many people in rural and remote Scotland hope might be the life-blood of their survival. Today's edition of *The Scotsman* states that Sir Walter Scott's home in the Borders underwent

"a disastrous decline in visitor numbers during the 2001 season"

as a result of foot-and-mouth disease and the terrorist attacks in the United States.

Against that sombre and depressing backdrop, something lurks that sends a chill through those areas—the aggregates tax, which comes into force in April 2002. The tax will pound Scottish quarries, the majority of which are in rural and remote parts of Scotland. The tax is meant to help the environment by reducing demand for quarried aggregates and by encouraging aggregate

consumers to recycle existing materials. However, the result will be the opposite—in my judgment, it is a tax on the environment.

The aggregates levy masquerades as an environmental measure that is aimed at promoting sustainable development, but it has no environmental justification. It assumes that Scotland has adequate materials for recycling, but there are serious concerns about the basis for that assumption. The aggregates that are produced in Scotland are needed and the tax will make them too expensive to buy. The tax will not benefit responsible operators; it will clobber them and it will not reward operators that work to high environmental standards.

There are more anomalies. Aggregates that are dug out of the ground for export will not be subject to the tax, but aggregates for use in this country will be. Opencast coal mining will be exempt from the tax, despite the fact that it is regarded by some people as being environmentally damaging.

Ironically, the aggregates tax will damage the environment, because many small quarrying companies will undoubtedly be forced to close. That will inevitably force companies to transport aggregates over longer distances as the number of supply quarries decreases. That can only exacerbate the harm that is caused to the environment.

The economic argument against the tax is even more conclusive. Scotland has 224 quarries; many are hubs of economic activity in rural communities. The livelihoods of about 1,500 employees depend upon a thriving aggregates market. Quarries are also indirectly responsible for many other sources of employment, such as engineering, fabrication and plant hire. It is vital that the aggregates levy is viewed in that context.

There is an economic argument—I am sure that it will be stated by the minister—that the resultant redistribution of the tax will create a neutral effect. It will not. In Scotland, which is far more vulnerable to the implications of the imposition of this tax than any other part of the United Kingdom, essential sectors of activity within our rural remote areas will decrease—some might close and all will suffer—and there will not be a net benefit left for those areas. The redistribution element of the tax is, in my opinion, morally highly questionable. The revenue is simply to be returned in a universal random distribution of national insurance contributions, which reaffirms the view that this is not an environmental measure, but yet another stealth tax.

Not only will the tax have devastating implications for rural employment, it will increase the cost of essential investment in our wider economic infrastructure. I submit that Scotland is

more vulnerable in that respect than are other areas of the United Kingdom, because we have very long stretches of roads infrastructure in sparsely populated areas. Investment in areas such as the improvement of our roads and our rail networks will have to be increased to pay for such a tax. The much more probable consequence, of course, is that investment will either be curtailed or, in some cases, cease altogether.

I submit that our rural and remoter economies, which are already battered—nobody can dispute that—will not cope with the aggregates tax. In Northern Ireland, attempts are being made to exempt Northern Ireland from the application of the tax. A very strong argument exists for Scotland's seeking to do likewise. I hope that that is something on which the minister will be prepared to comment.

I take pleasure in commending the motion in my name and I look forward to the speeches of other members, who I hope will be able to use more detailed instances to support the arguments that have so concerned me.

16:41

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I warmly congratulate Annabel Goldie on securing the debate, and on her typically informative and persuasive speech.

The main justification for an aggregates tax is that it will be good for the environment. It is my belief that it will not be good for the environment, but it will harm the environment. It is abundantly clear that it will do so in a number of specific ways. First, it is accepted that many small companies and small quarries are almost certain to close because of the burden that the aggregates tax will impose on them, which is not just £1.60 per tonne. There is a compliance cost of 30p per tonne to do the paperwork and complex compliance work that is involved. If those businesses close, I ask the minister what will be the upshot? It will be that instead of aggregates being obtained in areas such as the Highlands from smaller locally based quarries, aggregates will have to be delivered from larger quarries that are further away. That will lead to increased road transport, with heavy lorries travelling longer journeys, which we are all supposed to be signed up to reducing. I hope that the minister will respond to specific charges such as that.

Secondly, much has been made of the justification for the tax on environmental grounds, on the basis that it will somehow encourage recycling. However, the experts tell us that the scope for the recycling of additional aggregates is at best limited to about 1 per cent to 3 per cent. Indeed, outside the central belt of Scotland, even

less material is available for recycling. The environmental—or so-called environmental—research upon which the Chancellor of the Exchequer's decision to impose the tax from April next year was based has been challenged frankly by the various trade associations as being ridiculous. It does not stand up to scrutiny and it has been seriously challenged. I have raised the issue in correspondence with ministers, but in every case they have refused to respond.

I have one more point to make. The tax is levied at £1.60 per tonne of aggregate, but the cost of a tonne of aggregate varies substantially. It can be as low as £2.50 per tonne in rural areas and as much as £12 per tonne in London. It has been put to me that as a simplification, the cost of aggregates in greater London is twice as much as it is generally in Scotland. That means that the real burden of this tax is twice as high, generally speaking, in Scotland, or even more so.

That brings to mind—I am sorry to bring back a memory that is painful to the Conservatives—another tax that was not related to ability to pay; namely, the poll tax. The aggregates tax is a kind of poll tax on quarriers; it is crude, unfair and entirely unjustified. The burden and effect of the tax will be felt by quarriers and, as Annabel Goldie said, by the rural economy as a whole. It will also affect every individual because it is plain that the cost will be passed on to users and purchasers. Local government will have to pay more. Peter Peacock has made it plain that there will be no extra money for local governments, which will therefore have to increase council tax or seek an increase in business rates. People will pay the cost of the aggregates tax, but the Executive refuses to acknowledge that.

The Northern Ireland Assembly had the guts to debate the issue and all parties were unanimous in agreeing that the tax is unfair to Northern Ireland. That has resulted in the possibility of some concessions being made to Northern Ireland. It has also led to the Northern Ireland Affairs Committee of the House of Commons launching an inquiry into the issue.

If the Labour party and Liberal Democrats in the Scottish Parliament had the gumption to stand up and speak for rural Scotland, perhaps we would be further ahead than we are. No steps have been taken to ameliorate the bad effect of the aggregates tax or, better still, to scrap it altogether.

16:46

**Dr Elaine Murray (Dumfries) (Lab):** Until recently, I was not aware that Annabel Goldie had secured a debate on the rural economy. I wondered whether we would debate yet again the

aftermath of foot-and-mouth disease or other problems with tourism. I am therefore slightly surprised that the debate is concentrating on this particular piece of United Kingdom legislation and taxation.

I concur with Annabel Goldie's remarks about the problems faced by the rural economy over the past year, particularly those of rural tourism. However, I believe the dreadful events elsewhere in the world have presented opportunities in tourism to promote Scotland to the UK and northern Europe. I hope that VisitScotland and the area tourist boards will make every effort to cash in and promote tourism in Scotland wherever possible.

I have a bit to say about the history of the aggregates tax. Sometimes, the impression is given that it appeared from nowhere, that the Chancellor of the Exchequer did not listen to anybody and that the views of the producers were not taken on board. That is not the case. As members have described, the aggregates tax was intended to make some reparation for the environmental impact of quarrying. It was first announced in the budget in 1997 and a formal consultation was launched in June 1998.

**Mr David Davidson (North-East Scotland) (Con):** Will Dr Murray explain why she thinks that the tax will lead to environmental improvement, which seems to be the basis of her argument?

**Dr Murray:** That is not the basis of my argument. The legislation was introduced in recognition of the fact that quarrying has significant effects on the environment—it creates noise and dust, for example—and tends to take place in areas of scenic beauty. Although there are economic benefits, there are environmental disadvantages and that is why the taxation was brought in.

The Quarry Products Association offered a package of voluntary measures in 1998, but the Government at Westminster did not feel that that went far enough. However, in March 1999, the Government invited the QPA to come back with another series of voluntary measures that might fit the bill. It was not until later in 1999 that the Government indicated that the suggestions that the producers had made did not address sufficiently the environmental concerns and not until the budget in 2000 that it produced legislative proposals, which eventually received royal assent on 11 May 2001.

The Westminster Government has suggested that it is still interested, in principle, in a differential rate—so the door to that is not absolutely closed.

By giving some of the background, I hope to indicate that there was a dialogue on the issue over four or five years and that the aggregates tax

was not just about political correctness or stealth taxation or any of the other allegations that are often levied at Government. Having said that, we must recognise that there are several concerns in Scotland. Fergus Ewing referred to the impact on Scottish local authorities, which has concerned me. When the issue was raised originally in the Enterprise and Lifelong Learning Committee, I was interested in learning about the views of local authorities, because they are responsible for most roads in rural Scotland. We must go into more detail on issues that relate to their budgets.

16:50

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** I, too, am indebted to Annabel Goldie for the opportunity to have the debate. It gives us a fresh opportunity to consider the economic problems that affect much of rural Scotland. We all agree that those problems have been varied. They have also been severe and, unfortunately, prolonged.

The decline in our agricultural economy has had a devastating effect on many of our already fragile rural communities, where, historically, the slightest variation in the external marketplace has too often been quickly reflected in job losses and economic decline.

I need not tell members about the problems that were brought by BSE, foot-and-mouth disease and other events. They have all contributed to and aggravated the situation. That is to say nothing of the steady decline in tourism, which was and still is a main social and economic generator of viability in much of rural Scotland.

We must ensure that supportive measures to restore the well-being of those areas are not impeded. Any suggestion that additional burdens are to be imposed must be restricted, particularly in current circumstances. We have heard often how the areas involved suffer from peripherality, remoteness and the high cost of services; we should not forget that those areas have the highest fuel cost in western Europe, which leads to many problems, not the least of which is the extreme cost of transport.

The proposal to introduce an aggregates tax on quarry products is absurd in the extreme. Its implementation will lead to immediate job losses, not only in the quarry industry, but in the whole building and construction industry, whose viability depends on a ready and affordable supply of sand and aggregates, as everyone knows. The quarry industry must comply with strict planning and environmental controls in its operations and, ultimately, in site restoration. We should not make its operations and survival impossible by agreeing to impose another punitive tax.

16:53

**Alasdair Morgan (Galloway and Upper Nithsdale) (SNP):** My constituency contains a few small quarries. They do not provide many jobs, but any number of jobs in a small rural area is of great significance.

In the four years since I was elected to Westminster, I have received no complaints from constituents about the operation of the quarries. My constituents seem to carry on blithely unaware that their environment needs protection from the quarries to which they have been accustomed for many years.

When I first heard about the tax, I thought, in my naivety, that some rational assessment had been made of the environmental damage that quarries cause. It was only after considerable probing that I found the study on which the level of the tax is based. The study was carried out by the Department of the Environment, Transport and the Regions on the environmental costs and benefits of the supply of aggregates.

The study was conducted using the contingent valuation methodology, which sounds impressive, but is actually a glorified opinion poll. As the pollsters wandered up and down the leafy lanes of the countryside, they said to people, "Supposing that we gave you some money, how much of that money"—which is not the respondent's anyway, and which they will not be able to spend because it is not real—"would you spend to get rid of the local quarry?" They even asked visitors to national parks how much they would be prepared to spend to get rid of the quarries that are in the national parks. The questions asked were not about real money—people were asked, "Imagine that you had as much money as you wanted. How much money would you be prepared to spend?" Then the researchers added up all the amounts, divided the figure by the number of tonnes and arrived at a figure of £1.60 per tonne.

That is a ridiculous way to develop a tax. More important, no survey was done in my constituency. No one asked any of my constituents how much of their real money they would pay for the real quarry up the road from them. The pollsters even came up with fatuous remarks such as, "We included some quarry workers in this scheme and they were prepared to pay less to get the quarry removed." Surprise, surprise—none of my constituents was ever asked what they felt about the environmental costs that were to be inflicted on them. In fact, only two quarries in the whole of Scotland were included in the survey. We have been told how different the situation is in Scotland when compared with the rest of the United Kingdom.

The small, local quarries to which I refer produce

mainly for local consumption. The aggregates that are produced in my constituency are not trucked long distances, unless the distances imposed on them by the constituency being about 100 miles wide are considered to be long. If those quarries were closed, the same materials would have to be brought in from outside the constituency at greater damage to the environment because of the extra and longer-distance lorry movements that would be required.

Where environmental benefits are to be gained, we should encourage that to happen. There are clear environmental benefits from having small, local quarries. Those are precisely the quarries that will be put out of business by the aggregates tax. The best way of ensuring environmental benefits in my constituency would be to keep open the constituency's small quarries and at the same time preserve the jobs that contribute to the local economy.

The tax is deeply flawed. It is time that the Government examined it. We should be told exactly how the alleged fiscal neutrality of the bill is going to be proved in years to come. The whole point about hypothecation—in the case of this tax, as it relates to national insurance contributions—is that it is visible for the first year, but thereafter gets lost in the sum total of the Executive's budget. I will be interested to see how that point is argued.

I also hope that the minister addresses the sustainability fund, because I suspect that we will not see that implemented in Scotland in a clear manner either.

16:57

**Mr Jamie McGrigor (Highlands and Islands) (Con):** I congratulate Annabel Goldie on securing a debate on a subject that is of huge concern to rural Scotland. I agree with everything that Alasdair Morgan said.

The Scottish Conservative party is totally against the imposition of an aggregates tax. There is no need for the tax and, as has been pointed out, it will not be effective in improving the environment. That is better achieved by locating small quarries near to points of delivery and not by having a few large units, as that will only increase the number of lorries on the roads.

The tax is liable to affect 1,500 jobs in Scotland, take £48 million out of the Scottish economy and produce increases in council tax. The Executive has stated that no additional funding will be made available to councils to compensate for the extra costs that will be incurred due to the introduction of the tax.

My main worry is for the small quarries and especially for those on islands, which keep islands



self-sufficient in materials that are needed for local projects. It is incredibly important for local people to be able to go to a quarry and pick up a load of aggregate. I should point out that, on islands, there is usually one quarry. If that goes, everything has to be imported by ship.

I recently visited one such quarry, Ballygrant, on the isle of Islay. At the moment, some of the people there have jobs that relate to the Dunlossit estate. The quarry is run with old machinery and produces materials that are probably not up to mainland standards. Nevertheless, the quarry meets the urgent requirements of the islanders. The quarry also supplies council projects, but its main client base is composed of farmers, the tourist trade, eight distilleries and other small industries. Much of the client base would go if an increase of £1.60 per tonne were levied.

Things are difficult enough at the moment in the rural economy. Potholes will not be filled in and will be driven round with subsequent damage to car and tractor suspensions. The Ballygrant quarry might close with a loss of local jobs.

There will be an impact on the other facets of the business. Quite apart from the quarry products, the tax will produce a bookkeeping nightmare that will be comparable to VAT. That will decrease any possible profitability. Sand, gravel and rock quarries are highly regulated. They do not impact much on the public.

Because the sale price of products is much lower in Scotland than elsewhere in the UK, the tax represents a huge 35 per cent increase in prices. The tax will mean that less will be spent on roads in the Highlands, which are already falling apart. If local quarries close, more pressure will be put on those same roads by lorries importing the aggregates from elsewhere. There is no sense in the tax, which will only increase the burden on those who live in the countryside. As there is no environmental benefit to be derived from it, I urge the minister to ensure that it is not imposed in Scotland.

17:00

**Stewart Stevenson (Banff and Buchan) (SNP):** I congratulate Annabel Goldie on securing this debate.

As Elaine Murray declined to explain how the environment will benefit from the tax, allow me to do so. The answer is simple: quarries will close in rural areas of Scotland, which will remove the inconvenience of having people work in them. If we clear people off the land, we will not damage the environment in those areas. That is not a helpful way of protecting the environment.

I turn to a matter that affects my constituency,

Banff and Buchan. The Peterhead Bay Authority has a project, which is in the late stages of planning, to construct a breakwater for the harbour. We are talking about 1 million tonnes of new aggregates. We cannot reuse the aggregates that are already in circulation, as we require a particular specification for the breakwater, which will dissipate the energy of the waves in a particular way. A solid wall will simply reflect the energy into the harbour and do more damage than good. As a result of the tax, my constituents will pay £1.6 million plus VAT of additional tax. The national insurance reduction is 0.1 per cent of the employers' national insurance contributions, so in my constituency we will receive in return—thank you very much—£50,000 to £60,000 per annum.

The effect of the tax is to transfer £1.6 million from the Banff and Buchan constituency. The constituency is not overburdened with advantages. Peterhead and Fraserburgh are, respectively, the largest and second largest towns in Scotland that have no railway station—we have no railways. With the closure of quarries, we will have even more traffic on our inadequate roads as aggregates are brought to the breakwater project. That is if the project goes ahead at all, because the £1.6 million in tax has to be paid upfront and may destroy the whole rate of return.

If the project does not go ahead in Peterhead bay, we will lose a further £25 million project that the local authority is likely to sponsor in the area. The economic effect of the tax in one constituency is dramatic and totally adverse. I am confident that that situation will be repeated throughout Scotland. Money is being transferred from a rural area simply to pay for bankers to create new jobs in Edinburgh and other cities.

What of the sustainability fund? The House of Commons library tells me that it will be £35 million—less than 10 per cent of what is raised. There will not even be the opportunity to transfer back into rural areas a reasonable amount of the money that is raised by the new tax.

To put it simply, we have to follow the Northern Ireland model. Politicians should stand up for Scotland and look for a derogation that will not damage the economy. Let us encourage the Executive to talk to its colleagues in Westminster and to get the same for Scotland.

17:04

**The Deputy Minister for Environment and Rural Development (Rhona Brankin):** I am pleased to have the opportunity to restate the Executive's commitment to sustaining a healthy and vibrant economy in rural and remote areas of Scotland. We recognise the difficulties that many in the rural economy have suffered this year as a

result of foot-and-mouth and the effects of 11 September on sectors such as tourism. The Executive's aim is to develop the rural economy to be successful and sustainable. The quality of Scotland's environment is a key asset for many rural businesses.

It is important that we do not talk down rural Scotland, which has a diverse and dynamic economy, with many areas for potential growth. Agriculture and tourism continue to play a pivotal role in the development of rural society, not only economically but socially and environmentally.

**Mr McGrigor:** Will the minister examine the impact caused by the removal of the subsidy for spreading limestone on fields, as a result of which limestone quarries closed all over rural Scotland? The same will happen to local quarries if the aggregates tax is levied.

**Rhona Brankin:** The Executive is absolutely committed to supporting the rural economy. Indeed, £70 million will be made available over the next five years for initiatives to support farmers who want to restructure or diversify their businesses. That demonstrates a clear commitment to farm businesses in Scotland. The Scottish Executive's agriculture strategy contains a number of initiatives aimed at revitalising the industry, underpinned by the need for a sustainable approach.

A good example of action in more remote areas is the partnership that is being established by Western Isles Enterprise with the farming and crofting communities to improve the prosperity of farming businesses and to develop alternative sources of income. The Executive has also provided support for rural transport and infrastructure improvements. The creation of the rural transport fund brought new investment of more than £14 million between 1998 and 2001. There has been investment in new airport terminals at Kirkwall and Stornoway and two new vessels for Caledonian MacBrayne. We have built on that in the spending review 2000 by allocating an extra £60 million to enhance transport in the Highlands and Islands. The rural transport fund has already backed many crucial initiatives for isolated communities and will expand by £4.5 million over the same period—

**Fergus Ewing:** On a point of order, Presiding Officer. When is the minister going to get around to the topic of the aggregates tax?

**The Deputy Presiding Officer:** I think that the minister will take that point on board. Please continue, minister.

**Rhona Brankin:** If Mr Ewing cares to read the motion, he will notice that it says:

"That the Parliament notes the economic challenges

confronting the rural and more remote parts of Scotland".

That is exactly what I am addressing. I hope that Mr Ewing recognises the importance of addressing wider issues facing rural communities.

I shall specifically discuss the aggregates tax. The aggregates levy is a UK taxation measure, so the lead department is HM Treasury. Quarrying provides employment in many rural and remote areas of Scotland, but it can also have serious negative impacts on communities in terms of noise, dust and visual intrusion. In remote and sparsely populated areas, the impact on communities may be lower, but those are also often the areas with the greatest natural heritage value, where an unspoilt landscape is the key to attracting visitors.

**Miss Goldie:** On the activities of existing quarries, does the Executive have any substantive data about the number of complaints registered against quarry operators in Scotland?

**Rhona Brankin:** Obviously, a number of letters come to ministers during the year, but I have raised the issue in discussions and debates that I have had with people in different parts of Scotland. I do not know whether the issue affects Miss Goldie's constituency.

We have to ensure that the visual impact and potential nuisance caused by dust and noise is addressed. As I said, the impact may be lower in remote and sparsely populated areas, but those areas can have the greatest natural heritage value, so there could be an impact on attracting visitors.

The quarrying industry was given the opportunity to devise a voluntary scheme to minimise its impact on communities and the environment, but its proposals fell short of Government expectations. The result has been the proposal to introduce a levy.

The Executive is keen to avoid a disproportionate impact on smaller quarries, which are prevalent in rural and remote areas and often provide the most sustainable solution, minimising transport distances and other adverse effects.

The tax will be revenue neutral. All the revenue raised will be returned to the economy through a cut in employers' national insurance contributions and the creation of a sustainability fund, as has been mentioned.

**Miss Goldie:** Will the minister give way?

**Rhona Brankin:** If the member does not mind, I will get on with my speech.

Agriculture and forestry sectors have been granted a partial exemption from the levy for aggregates extracted from their own and adjacent land. That will offer protection to two key sectors of

the rural economy.

The Executive is committed to taking forward rural development in a sustainable way by balancing the need for economic development with measures to protect our environment. The aggregates tax provides a practical means of encouraging development schemes to use materials from more sustainable sources. Developers can reduce the amount of tax that they have to pay by using recycled aggregates or alternative materials.

The Executive is aware that recycled aggregates will not replace all uses of primary aggregate. However, we believe that there is scope for increased use of recycled materials; that view has been backed up by research published earlier this year.

**Fergus Ewing:** Will the member give way?

**Rhona Brankin:** No—I am just winding up.

Although the rural economy has had a difficult year, the Government has created an economic climate of low interest rates—

**Fergus Ewing:** On a point of order, Presiding Officer.

**The Deputy Presiding Officer:** Are you sure that it is a genuine point of order?

**Fergus Ewing:** Yes. As the minister will, I know, want to respond to all the other points that were raised in the debate, is it in order to extend the period of the debate to give her an opportunity to do so?

**The Deputy Presiding Officer:** I am not inclined to accept that point of order. However, the minister can have another two or three minutes if she so wishes.

**Rhona Brankin:** To repeat, although the rural economy has had a difficult year, the Government has created an economic climate of low interest rates and low inflation, which should allow businesses to move on from these problems and flourish in future. Indeed, the Executive supports rural and remote areas in several ways from support for rural transport services to support for diversification in the agriculture sector.

Before I finish, I want to cover the question that Annabel Goldie and Fergus Ewing raised of a supposed exemption for Northern Ireland. The Treasury has taken no decision on such an exemption. Furthermore, the situation is slightly different in Northern Ireland, as the main argument centres on the land border with the Republic of Ireland. Clearly the same argument does not apply in Scotland. As a result, the issue is a little more complex than the Opposition implies.

In conclusion, the Executive's commitment to

rural development is balanced by a desire for progress that is achieved in a sustainable way and that does not damage the environment, which is one of the rural economy's main assets.

*Meeting closed at 17:13.*



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