

MEETING OF THE PARLIAMENT

Thursday 26 June 2003

Session 2

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Scottish Parliament

Thursday 26 June 2003

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

Subordinate Legislation

Landfill (Scotland) Amendment Regulations 2003 (Draft)

The Deputy Presiding Officer (Trish Godman): The first item of business is a debate on motion S2M-143, in the name of Ross Finnie, on the draft Landfill (Scotland) Amendment Regulations 2003.

09:30

The Deputy Minister for Environment and Rural Development (Allan Wilson): The Landfill (Scotland) Regulations 2003 (SSI 2003/235) came into force on 11 April this year. Those regulations were recommended to Parliament following a debate in the Transport and the Environment Committee on 4 March 2003, and were approved on 13 March 2003.

The Executive was grateful then, and is grateful now, for the support both in committee and in Parliament for those regulations. Sustainable waste management demands that we reduce the volume and manage the disposal of waste safely. Our landfill regulations act on those priorities and are an important step in ensuring that the disposal of waste does not threaten either human health or the wider environment. Parliament supported those aims in March and I expect that it will continue to support them now.

It is perhaps appropriate at this juncture to expand on our wider European obligations. I understand that I have circa 10 minutes of debating time to fill so, at this point, I should welcome one of the unsung heroes of the parliamentary press corps, the Press Association reporter. Unlike his colleagues in both the tabloid and quality press, who have failed to make it this morning, he is in the press gallery, and I welcome him.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Why did they not make it?

Allan Wilson: That is a good question.

We aim to achieve a reduction by 2010 of 75 per cent in the 1995 levels of biodegradable municipal waste going to landfill sites. We then hope to reduce those levels by 50 per cent by 2015 and by

a further 35 per cent by 2020. We intend to ensure that continuing landfills accept only permitted types of waste and are managed so as to provide documented protection for the environment and human health.

I could go on about the detail of those regulations if members were interested, but as there appears to be no expression of interest from the Opposition benches, I shall move swiftly on to mention the fact that they are in force. The regulations now provide us with the opportunity to have a consistent regime for all landfills in Scotland. The requirement for operators to produce site conditioning plans, and the consequential increased regulatory powers, will enable the Scottish Environment Protection Agency, which works on our behalf, to take a more active and effective role in controlling the construction, operation and aftercare of landfills. As a result of the regulations, landfills will be constructed and operated to much higher standards, and we are ensuring that they will not therefore pose a hazard for future generations in years to come.

Mrs Margaret Ewing (Moray) (SNP): What will happen where landfill sites are already overfull and have to be closed? The waste from Inverness is now being transported to the constituency of my friend Stewart Stevenson, which leads to much more traffic congestion and to other health hazards involved in the transportation of waste. I find that a worrying prospect.

Allan Wilson: I am familiar with the situation in Inverness, and I share Mrs Ewing's concerns. Not just in Inverness, but anywhere where waste is transported, we abide by the proximity principle in the development of both area and national waste management plans. That should provide for the disposal of waste as close to its source as is feasible. It is for local authorities and others involved in the management of waste to ensure that the proximity principle applies as far as is possible.

I turn now to the benefits of the regulations that we are considering today. As I said, the regulations are in force and SEPA is acting on them as we speak, and I believe that the three amendments in the amendment regulations that I am recommending to Parliament today will make them even more effective.

Both the Subordinate Legislation Committee and the Transport and the Environment Committee drew attention to the fact that partnerships, although legal persons in Scots law, were not among those entities against which action could be taken under the regulations. Although action could be taken against the individual members of partnerships, we were happy to acknowledge the value of the committees' suggestions earlier in the

year. I undertook to take the first possible opportunity to amend the regulations to deal with that omission. The new session of Parliament is barely a month old, so I hope that the members of the new committees feel that we have fulfilled that commitment to Parliament promptly.

At the same time, the Executive would like to use this opportunity to make two further amendments to the original regulations. The first is a clarification of the definition of waste for the purpose of those regulations. As was made clear during the debate in the Transport and the Environment Committee, we wish to include among the kinds of waste whose landfill will now be regulated certain waste streams—notably agricultural waste—that are not currently covered by the controlled waste regime.

The original regulations were accompanied by a provision to commence part of the Environment Act 1995 to do precisely that. We have since decided, in consultation with SEPA, that it would provide greater clarity to amend the definition of waste in the regulations. The amendment regulations before Parliament therefore refer specifically to the European waste catalogue, which is a very broad listing of wastes. By referring to that catalogue, we can be sure that landfill of the whole range of wastes is covered by our legislation and that we are therefore adopting best European Union-wide practice. That does not depart from the original intention of the regulations that Parliament approved, nor does it introduce any new burdens that were not envisaged at that time. The amendment merely clarifies the broad ambit of the regulations and puts them in their broader European context.

Finally, our third amendment will correct a minor typographical error in the original regulations. In the box at paragraph 3(14)(a) of schedule 6 to the original regulations, there is an incorrect reference to

“paragraph 1(9) of Schedule 5”.

That should be amended to read, “paragraph 1(6) of Schedule 5”. That is a fairly significant amendment. Schedule 6(3)(14) concerns serving notices, and the provision about serving notices is found in paragraph 1(6) of schedule 5, not in paragraph 1(9).

Stewart Stevenson (Banff and Buchan) (SNP): What time did he get to bed last night?

Allan Wilson: Not long enough ago, that is for sure.

I assure members that, although that error was present in the original regulations, no proceedings were compromised thereby. By correcting it now, we will enable SEPA to serve notices where required.

The amendment regulations that are being put before Parliament today are simply to clarify the original regulations and to make them more effective in establishing an improved landfill regime. That is the purpose for which the Transport and the Environment Committee and the Subordinate Legislation Committee recommended the original regulations to Parliament in the previous session, and for which Parliament voted in their favour at that juncture.

I therefore look forward to—and I am sure that I can expect—the continued support of Parliament for those minor technical amendments. I commend them to the chamber.

I move,

That the Parliament agrees that the draft Landfill (Scotland) Amendment Regulations 2003 be approved.

Linda Fabiani (Central Scotland) (SNP): Beat that, Richard.

09:40

Richard Lochhead (North East Scotland) (SNP): I thank Linda Fabiani for that comment. I suspect that whatever the minister was taking last night at the parliamentary event held by journalists may still be in his bloodstream.

I have a sense of *déjà vu* because last Thursday some of us—very few of us—gathered in the chamber to debate amendment regulations that also related to environmental matters. Those regulations concerned the water industry, and were an example of the impact of European legislation on the work of the Scottish Parliament. In this case the Scottish National Party supports the introduction of these amendment regulations. I am sure that we all wish to give our warm thanks to the Subordinate Legislation Committee for bringing the issue to our attention.

The amendment regulations ensure that the existing regulations will cover all forms of waste disposal, including agricultural waste and non-mineral waste from quarries and mines. I am sure that we all recognise the role that farmers will have to play in improving Scotland's environment in the years ahead. We welcome the wholehearted support of farmers for making that contribution.

We have 45 minutes to debate the issue of landfill, which is unfortunate because there are other more important issues for which we could have used the time. One such issue is that of food supplements, on which many MSPs were calling for debating time yesterday.

It is to Scotland's shame that 90 per cent of waste is currently landfilled. For too many years, people in Scotland—particularly in industry—thought that, due to the geology of Scotland, the use of landfill sites was easy and cheap. That

allowed people who operated quarries and so on to restore them simply by using landfill. We have learned, however, that there are many disadvantages to using landfill. The older sites have produced a great deal of pollution, and there are uncontrolled leakages. There is now a shortage of sites, and Margaret Ewing referred to the transportation of waste from one site to other sites across the country. That in turn leads to further pollution because of increased road traffic and so on. Landfill sites are unsightly—no one wants one on their doorstep. They are noisy and smelly, which makes them unpopular with the public.

The SNP supports the Executive's belief that we should not squander Scotland's valuable resources and energy on landfill. We all recognise that landfill contributes to global warming by producing carbon dioxide and methane. I have already referred to the environmental degradation that results from leakages, and other pollution arises as a result of transportation.

The SNP supports the strict regulation of landfill and a reduction in the number of landfill sites in Scotland. Tackling those issues is perhaps one of the biggest challenges facing the Parliament. The Government launched its waste strategy a few years ago, while earlier this year the waste plan was launched. As well as recycling targets and so on, how we deal with Scotland's waste is one of the biggest issues facing the Parliament. It is therefore disappointing that no parliamentary committee has so far considered the issue. I hope that we can encourage the Environment and Rural Development Committee—

Sarah Boyack (Edinburgh Central) (Lab): It may please the member to hear that yesterday, at its second meeting, the Environment and Rural Development Committee decided that it would consider the issue of the national waste strategy, with a view to scrutinising the Executive's work and making an input to the work of the European Commission and the European Parliament on the issue, which must be concluded by the end of December 2003.

Richard Lochhead: I am delighted to hear that, as we have been waiting for four years. Anyone else who wants to intervene has two or three minutes in which to do so.

It is sad that the figure for recycling in Scotland is only 7 per cent. The SNP welcomes the fairly ambitious national waste plan that was launched earlier this year. The plan talked about achieving, by 2020, a seven-fold increase in recycling and composting, the target of bringing the segregation of kerbside recycling to nine out of 10 homes in Scotland, and a reduction in the number of landfill sites in Scotland by roughly two-thirds. Those are very ambitious targets, so when the minister winds

up perhaps he could refer to the feedback he has so far received from Scotland's local authorities on meeting them. The targets should perhaps be even more ambitious, but we must ensure that local authorities have the resources and the ability to deliver. We need alternatives to landfill sites, and we cannot move away from using such sites until those alternatives are in place.

Some local authority officials are hoping for action to speed up planning applications for recycling plants and the introduction of new regulations on the end rules for the use of compost. Apparently, the law says that if industrial compost includes animal by-products it must be put in landfill. However, although it may not be possible to remove the danger, I understand that composting techniques have advanced and that new legislation will be introduced. People are awaiting that legislation and want it fast-tracked if possible.

It is important that the Parliament is vigilant about the environment. Some local shops in Aberdeen—and no doubt elsewhere in Scotland—that deal with the recycling of ink cartridges are running petitions to gain people's support and to highlight that the big manufacturers want to stop those smaller businesses recycling ink cartridges because that takes away business from the big multinationals. It would be bad for the environment if those manufacturers get their way. We must address that situation urgently. I urge ministers, members and the parliamentary committees to investigate the issue. It would be ludicrous if, simply to boost their profits, the big multinationals were to stop the smaller shops recycling ink cartridges—which are used in particular by students and small businesses—to save some cash. We do not want Europe to support that; we want the Parliament to ensure that Europe does not go down that road.

The minister could also refer to an issue that was in the news a few days ago. Ninety-four ships are being towed from the United States of America through Scottish waters to Teesside to be scrapped and have their toxic cargoes removed. That may pose a huge environmental risk to Scottish waters and Scotland's coastal environment. Some ministers have already voiced concern about the situation, but perhaps the minister could assure us that the Executive will consider the matter.

The Parliament can pass as many regulations as it wants, but our job of protecting the environment would be much easier if we could educate the public about how to save energy, recycle and so on. Any comment that the minister can make on what has been done to educate the public and inform people about the dangers of failing to protect the environment would be welcome. The SNP supports the regulations.

09:48

Alex Johnstone (North East Scotland) (Con):

The Conservatives supported the regulations when they originally passed through committee and will support the amendment regulations today. It is important that we address the issues dealt with by the regulations, and the amendment regulations that have been introduced are justified. It is a concern that we have had to devote three-quarters of an hour to the issue, when it might have been more appropriate for it to have been dealt with by committee. The parliamentary process will be up and running after the summer recess, and I hope that we will be able to avoid such situations arising in future.

However, we should not pass up the opportunity to bring the issue of landfill on to the parliamentary agenda. This is a rare opportunity to discuss one or two slightly broader issues that are covered by the regulations under discussion. I am concerned that the Executive and the papers that it produces, including the regulations, talk regularly about the imposition of targets. Targets for recycling and other means of waste disposal that move us away from landfill are worth while in the sense that they set an objective that we all feel is necessary. However, my concern is about where targets cause distortion in the system. There are one or two areas where I have concerns about the effects that targets may have.

We talk about recycling—particularly composting—as an alternative to landfill, but I am concerned primarily about the suggestion that, in some cases, incineration be used as an alternative to landfill. Even when power is recovered from the incinerators and some sort of efficiency can be argued, there is a growing concern that public health might be put at risk as a result of a decision to use incineration instead of the landfill option. I would be interested to hear from the minister exactly where the Executive stands on the issue of the incineration of waste and whether any work is being done to allay the public's concerns that are being reported to me, particularly with regard to the disposal of organic waste.

The issue of landfill is very much to the fore in the area immediately north of Aberdeen. I thought that it would be appropriate to raise one or two concerns that have been raised with me in recent months and years. Other members might want to contribute on this point in greater detail, as it is a constituency interest for them.

I am particularly concerned about the transportation of waste out of Aberdeen and into the area immediately to the north. The geology of the Aberdeen area means that there is little opportunity to establish landfill sites to the south or west of the city. The area immediately to the north, however, lends itself to the practice of landfill.

Consequently, a number of landfill sites have been situated there over the years. In places such as Blackdog, we have seen the way in which landfill should not be done. There are on-going environmental problems associated with that site, which is now closed but which was worked in ways that will damage the environment in the future. There is another controversial site in Wester Hatton, which is still the subject of a number of objections by local people who continue to contact me with their concerns.

The problem with the regulation of such sites is that the regulations can be so tight—as with the Wester Hatton site—that, in many cases, rubbish is not dumped at them. Much of Aberdeen's rubbish goes up the road past the Wester Hatton site and on up to Peterhead, in Stewart Stevenson's constituency, where it is dumped at less cost. As a result of the necessity to move rubbish over longer distances, fuel is burned and the environment is consequently damaged. Is the minister prepared to consider the way in which regulations are implemented to ensure that, in future, we do not have the unfortunate situation in which rubbish is hauled over many miles to avoid problems such as those that have been mentioned?

Richard Lochhead mentioned the issue of the ships that are coming across the Atlantic and passing through Scottish waters on their way to Teesside. We have to be extremely responsible in our approach to that situation. I have concerns, which many members share. However, if we are to dispose of dangerous substances and recycle waste in an environmentally responsible manner, that has to be done somewhere. The techniques and capability to do so might exist in other countries, but they might also exist in the United Kingdom. To the extent that they exist here, it is essential that we accept our responsibility and ensure that such practices are carried out where that can be done most responsibly.

Richard Lochhead: Will the member give way?

Alex Johnstone: I am nearly finished.

We have to address our responsibilities and ensure that our arguing against having that sort of work done in the UK does not simply result in its being done in the former Soviet Union, India or the far east, where the environment might be damaged to a far greater extent.

09:54

Maureen Macmillan (Highlands and Islands) (Lab): I support the regulations and the amendment regulations. The regulations were endorsed by the Transport and the Environment Committee, and the Tories supported them too—but, I have to say, only after a lot of argument.

The proposal is, I hope, a further step towards a more environmentally friendly waste strategy. This country does not have a good record on waste management—in fact, it is abysmal.

About 10 years ago, I went on a school exchange to Hamburg and stayed with a German family. I was utterly ashamed by how the German commitment to recycling compared to ours. There were separate collections on the doorstep for paper, glass, tin cans and compostable materials. At that time, when it had been suggested that Scotland might go down the same road, the idea was ridiculed—for example, the tabloids printed cartoons of woolly-hatted environmentalists sniffing dustbins and so on. The culture in this country has never encouraged us to address our responsibilities with regard to recycling.

Alex Johnstone: Does the member agree that the example of Germany highlights one of the problems that face us in relation to recycling? At a time when paper was being recycled in many European countries through an internally funded, market-led process, the Germans decided—for all the right reasons—that, because paper recycling was a good idea, they would offer a substantial subsidy for the recycling of paper. However, that decision led to the collapse of the practice in every other European country.

Maureen Macmillan: I want to address that point in a Highland context. I do not think that recycling should be market led because, if it were, it simply would not happen in some areas of the country.

My first foray into recycling was when I was 10 years old. During the summer holiday that I spent in Oban, my cousin and I realised that the shoreline was a good source of empty beer and lemonade bottles that had been thrown over the side of fishing boats or Caledonian MacBrayne ferries. We spent our summer holidays collecting beer bottles and taking them to McKerchar's the grocers and getting tuppence for them. We spent that money on iced buns—

Mr John Home Robertson (East Lothian) (Lab): And doughnuts?

Maureen Macmillan: And doughnuts, which we saved up for a midnight feast, meaning that they were fairly stale by the time we ate them. What is the balance of good in that example? We certainly cleaned up the shoreline, but I probably did my teeth inordinate damage and ensured that I ended up with the figure of a traditionally built woman that I have today.

Although that is a humorous example, the idea of the balance of good is important. Margaret Ewing is not in the chamber anymore, but I want to pick up on what she said about the landfill in Inverness being closed down. SEPA wanted it to

be closed down for environmental reasons, yet further environmental damage is being done as a result of the need to haul the rubbish to Peterhead for disposal. I do not want to take a side in that argument, as I do not know what the answer is, but I wonder whether any thought was given to the balance of good before that decision was made.

Stewart Stevenson: Leaving aside the landfill site in Peterhead, which is a matter of concern to me, does the member agree that there might be some environmental advantages in transporting Inverness's rubbish by ship instead of road? That would provide an opportunity to develop more freight opportunities at Inverness and Peterhead.

Maureen Macmillan: I agree, and I believe that that possibility, as well as the possibility of transporting it by rail as close to Peterhead as possible, was considered by Highland Council. Unfortunately, however, both options were rejected.

We are making progress in the Highlands. Across the region, there are community groups that are dedicated to recycling and composting, such as the Campbeltown waste busters. That group was recently told that it would receive more money from the Executive to help its project. The Lochaber environmental group has raised awareness of waste management in a rural context and has questioned, as others have done, our culture of overpackaging almost every item that is sold.

I wonder what has happened to the Producer Responsibility Obligations (Packaging Waste) Regulations that the Government introduced in 1997, following the European Union directive in 1994. I have not seen any reduction in packaging. If one wants to buy three cup hooks, they are still unnecessarily attached to a piece of cardboard and sealed in plastic in the ironmongers. We should consider the amount of unnecessary packaging that exists.

The Deputy Presiding Officer: The member should wind up.

Maureen Macmillan: I could have continued for much longer, but unfortunately I will have to end there.

10:01

Nora Radcliffe (Gordon) (LD): The downside of Europe is that our ministers have to sit up all night to reach decisions, but that seems to be worth while. I do not know whether members listened to the news this morning, but we seem to have arrived at a good deal for Scottish agriculture that will open up possibilities for encouraging good farming practice and benefits to the environment. That is to be welcomed, particularly in the context of how waste and landfill are dealt with.

One of the things that Europe does best is driving the environmental agenda. The first Community strategy for waste management dates back to 1989. We know that the effects of pollution and global warming are not confined by national boundaries and we know what we need to do. Working on a pan-European basis encourages all member states to take action and removes the excuses that the impact of one state's actions can be cancelled by the fact that other states are not following suit or that there will be a competitive disadvantage through dealing with waste properly.

The amendment regulations are the latest step in the much-needed process of tightening up how we deal with our waste. As Richard Lochhead reminded us, some 90 per cent of our waste goes to landfill, which illustrates Scotland's position at the lower end of the waste hierarchy. There is a heavy dependence on disposal. We know how much we need to do to hoist ourselves up the waste hierarchy, but it is vital that we tackle all aspects of waste, including minimisation, reuse, recycling and safe, properly regulated disposal, down to the last closing bracket—I say that to Allan Wilson.

There has been a waste strategy—area waste plans are feeding into the national waste plan, which is beginning to have an impact. This weekend, I will put out my third lot of papers for kerbside collection in Inverurie. Each collection in the town has been larger than the previous one, as people become more aware of the service.

To get to where we want to be from where we are with our attitudes to waste will take sustained action on many fronts, better regulation of landfill sites, better provision of properly engineered sites and better planning to avoid long-haul solutions. The amendment regulations will help. We welcome and support them.

The Deputy Presiding Officer: Robin Harper will be followed by John Swinburne.

10:03

Robin Harper (Lothians) (Green): How long do I have?

The Deputy Presiding Officer: You have a strict six minutes.

Robin Harper: Thank you.

Yesterday, I lodged an amendment to the motion, although it was not selected for debate. The amendment proposed inserting the following words at the end of the motion:

“but, in so doing, recognises the regrettable situation that, at present, and for the foreseeable future, landfilling remains the waste management option of choice for virtually all local authorities; laments the fact that several community recycling projects are facing financial ruin owing

to the failure of promised public funding; acknowledges that current recycling targets are wholly inadequate given the potential for recycling, and requests that the Scottish Executive formally adopts the concept of ‘zero waste’.”

In his foreword to “The National Waste Plan 2003”, Ross Finnie states:

“This National Waste Plan ... sets out the basis for a fundamental shift in the way we manage Scotland's resources.”

He continues:

“Our vision is for a resource-efficient culture where waste reduction, reuse and recycling are a part of everyday life for everyone.”

We support that. We strongly agree with Mr Finnie and assert that nothing less than a fundamental shift is required if we are to achieve a sustainable Scotland. Unfortunately, the draft Landfill (Scotland) Amendment Regulations 2003 do nothing to bring about such a sea change in how we tackle the waste problem.

The waste framework directive calls on member states to encourage

“the prevention or reduction of waste production”

and

“the recovery of waste by means of recycling, re-use or reclamation or any other process with a view to extracting secondary raw materials”.

However, in practice, that does not happen. Landfill operators do not sort the wastes that they receive; the wastes are simply dumped on the tipping face, compacted, covered over and essentially forgotten. We believe that there must ultimately—within 10 years—be a presumption that all waste, as it has been defined, be screened for the presence of reusable, recyclable and otherwise recoverable components and constituents. Waste should be landfilled only when there is no further practicable potential for any of the waste-recovery processes that I have mentioned.

Phil Gallie (South of Scotland) (Con): Robin Harper may be aware of the plans to create major plants at Westfield in Fife and Killoch in Ayrshire, which would involve transportation of large masses of waste over many miles and create fairly large problems at those sites. Does he envisage the need for such sites?

Robin Harper: Those are definitely not the kind of sites that we envisage. In all too many cases, such sites are associated with landfill and the possibility of incineration. The building of incinerators with a commitment to producing waste for 25 years in order to solve our energy problems is a bizarre compact that the Green Party utterly rejects.

General wastes can be passed through a mechanical sorter that extracts glass and metal,

for example, that may have been missed by individual householders, although we believe that it is important that individual householders should bear the responsibility for preliminary sorting. It has been shown that, in Denmark, roughly half the people recycle carefully, but that the rest are fairly ambivalent about the process. Certainly, some 20 to 25 per cent of people—even in some of the best countries—are not good at sorting their rubbish. A change in attitude towards waste would have a marked impact on Scottish recycling rates—from being among the lowest in Europe, rates would become among the highest in Europe.

I want to deal with a serious problem that I mentioned in my amendment—indeed, the amendment might not have been selected because the problem was thought not to be precisely relevant to the subject for debate today. There is a serious problem for small-scale recyclers in Scotland. I received a letter from a recycling project on the west coast of Scotland. Although the project has been extremely successful, it will be legally obliged to file for bankruptcy in five days' time, as it has not received the piece of paper that it needs from the Executive in order to borrow from the banks until the promised Executive money arrives.

The situation is absolutely shambolic. Perhaps other small-scale recyclers throughout Scotland are scared to complain for the simple reason that they are always having to beg for money from here, there, the Executive, the landfill tax and local councils—they are not putting their heads above the parapet in case they annoy somebody. The letter that I received states:

"Firstly, the speed of the change seems to have been too fast, giving organisations little time to plan. Secondly, the interim arrangements in Scotland have not been sufficient to tide environmental organisations over."

It continues:

"I am aware that in Edinburgh a number of LEEP employees are facing redundancy or a reduction in their hours".

That fact was publicised in the *Edinburgh Evening News* on 14 April.

The business environmental partnership in Midlothian has done fantastic work. It has helped more than 200 Edinburgh-based businesses to participate in waste minimisation projects, but the changes in landfill tax credits mean that it is no longer able to bid for landfill tax credits from the Edinburgh environment partnership grants scheme to run waste-related projects in Edinburgh. The situation is a shambles and it is up to the Executive to sort it out as quickly as possible.

10:09

John Swinburne (Central Scotland) (SSCUP): I had thought that I would be off the hook today. I

thought, "Landfill sites—senior citizens—easy." But, no, a delegation of senior citizens from Stewartfield in East Kilbride dropped in last week—they had picked up from the internet that the landfill regulations would be discussed. They came to my door and said, "Can you come with us?" So I went—I was outnumbered. We went to Stewartfield, where there was a plague of flies coming over from the Cathkin landfill site. The site is not far from Stewartfield, which is a beautiful housing estate. The plague of flies was indescribable and totally unacceptable.

Those who operate landfill sites are bound to have some way of spraying disinfectant to kill the things, but it is alleged that South Lanarkshire Council has come up with an answer to the problem—its answer is to breed 40,000 coloured flies and release them from the landfill site in order to prove that the problem does not come from the site. The idiots have taken over the place. I give in. I think that that is all that I have to say.

The Minister for Finance and Public Services (Mr Andy Kerr): It is unfortunate that the member describes the actions of the council and of the operator of the landfill site as idiotic, because there is established evidence to suggest that flies do not travel very far. However, they may be doing so in this case, so the council is responsibly trying to find out whether the cause is the landfill site or something else in East Kilbride. Perhaps the Philipshill water treatment works is the reason for the flies. It is an important principle that the cause must be established before action can be taken. The community of Stewartfield would want to ensure that there is evidence to show once and for all whether the problem comes from the landfill site. If the landfill is not the cause, we have another problem to deal with.

John Swinburne: Perhaps the minister will tell us who is to count the number of coloured flies that people sweep up in their houses.

Mr Kerr: I will answer that. A number of residents in Stewartfield have agreed to take part in the project. They have been given sufficient material to catch the flies, which will be taken away by environmental health officers, who will make an assessment. That is good practice. It is an innovative approach that will ensure that we get to the root of the problem rather than tackle a problem that may not exist in the first place. That is a good use of public money.

John Swinburne: I rest my case. The idiots have taken over the asylum. I am sorry.

10:12

Karen Whitefield (Airdrie and Shotts) (Lab): Unlike many members, I welcome the opportunity provided by today's debate. As members may

know, I have a particular interest in the effect that large-scale landfill sites can have on communities.

The village of Greengairs in my constituency has the misfortune of sitting adjacent to one of Europe's largest landfill sites. The village is almost entirely surrounded by other landfill operations and opencast workings. The people of Greengairs know only too well what it is like to have to live with the effects of landfill: disgusting odours, plagues of flies, local roads destroyed by heavy-goods vehicles and the constant buzz of helicopters at work flying overhead. They experience all those things day in, day out, month after month and year after year. The experience of the people of Greengairs stands as a reminder, if one is needed, of why we must find viable and sustainable alternatives to burying our waste products in the ground.

The amendment regulations seek to improve the working of the EU landfill directive by amending the Landfill (Scotland) Regulations 2003. They are intended to prevent or reduce the adverse effects of landfill waste on the environment and, consequentially, on the people who live in the communities that are nearest to landfill sites. I welcome the intention behind the regulations. In particular, I welcome the steps that they set out to ensure that different types of waste are sent to the appropriate type of landfill site.

The community of Greengairs has strong concerns about the fact that the nearby site accepts waste products that are unsuitable for a landfill that is so close to a residential community. I can assure members that the story that a whale was dumped in Greengairs is far from being an urban myth. That was the reality that my constituents faced last summer. They had to endure the appalling and disgraceful smells and the swarms of flies that came with the whale as it was transported to the site.

Although I welcome the strengthening of regulations designed to prevent inappropriate use of landfill, I call on the minister to ensure that the Scottish Environment Protection Agency does everything in its power to implement the regulations. Where necessary, SEPA must prosecute those companies that flout the regulations. The recent publication of the online register of polluters showed that the Greengairs site, which is operated by Shanks Waste Services Ltd, is the seventh in Scotland's top 10 worst toxic polluters. That is a shameful statistic. If the situation is to change, it is vital that the regulations are properly enforced.

The amendment regulations are to be welcomed. I welcome anything that improves the environment for people whose lives are blighted by the operation of landfills close to where they live. However, we must also begin to take

seriously the need to find alternatives to landfill. That is necessary not just because the regulations tell us so, but because we owe it to the people who live by opencast workings to ensure that our short-term decisions do not leave long-lasting consequences for them in the years to come. I certainly owe it to the people of Greengairs to ensure that they do not endure opencast and landfill for one more day than is necessary. *[Applause.]*

The Deputy Presiding Officer: I call Alex Johnstone.

10:16

Alex Johnstone: Is that me? I am sorry, but I could not hear for the clapping.

Stewart Stevenson: Are you sure that it was not the effects of last night?

Alex Johnstone: No, I am perfectly okay.

The debate has been surprisingly interesting, largely because we have been able to spread our wings slightly further than the scope of the regulations. The debate has given the Parliament an opportunity to unite behind the principles behind the instrument, which are that landfill is unacceptable in modern circumstances. For a whole host of environmental reasons, it is a sound idea to move towards alternative means of dealing with rubbish. However, as I mentioned earlier, there are continuing concerns about some of the alternatives to landfill.

Some interesting points have been raised during the debate, but I am particularly concerned about John Swinburne's flies. I would be interested to know what colour they were. Some alternative methods of dealing with flies involve breeding more flies and releasing them. If the flies can be bred so that they are unable to reproduce, releasing them in the area can have the effect of cutting out the flies altogether in the long term. That technique has been used worldwide and is being used effectively in other areas of Scotland.

At the conclusion of today's debate, the minister can take it that the Parliament backs the principles behind the regulations but believes that we have a lot more to do. As our convener, Sarah Boyack, mentioned, the Environment and Rural Development Committee has committed itself to looking at landfill issues as one of its priorities. I look forward to taking that opportunity when the committee begins to deal with the matter.

If we are to get round the problem of landfill sites, we must move quickly to examine the alternatives and deal with the objections that there might be to some of them. Flies are not the only problem. I assure members that severe concerns have been brought to my attention about the

impact that incineration might have on local environments. In Scotland, one or two incidents involving waste incineration led to some horrifying consequences and some extremely tedious litigation. Consequently, if we are to use incinerators as a method of disposing of, and even of recovering energy from, waste, it is essential that, before we progress down that road, we consider the impact that such practices have on the environment. Nonetheless, the use of landfill must be reduced.

The Deputy Presiding Officer: I call Allan Wilson to wind up the debate.

Allan Wilson *rose*—

The Deputy Presiding Officer: I am sorry, but I have forgotten Linda Fabiani. I apologise.

10:19

Linda Fabiani (Central Scotland) (SNP): It is terribly upsetting that I am so easily forgotten, especially when I have even more enthusiasm than Karen Whitefield to speak in today's debate.

The SNP welcomes the fact that regulations are being changed to bring Scottish law into line with European law. However, Robin Harper is right—even though we discussed landfill and waste strategies many times during the Parliament's first session, it seems that that was to no avail, because nothing much has changed. Robin Harper is still mentioning people who come up with great waste strategy initiatives but are totally hamstrung in trying to make a difference and are unable to help us to meet the targets that we have talked about.

I am glad to hear that the new convener of the Environment and Rural Development Committee is being strongly urged to hold an inquiry on waste strategy. I hope that the next time we discuss waste management we will be able to come up with real solutions to the real problems that exist, particularly in relation to landfill, because the present situation cannot be sustained for much longer. It is all very well to bring in new regulations, but I am not convinced that we are giving teeth to the relevant agencies and the local authorities that must monitor such matters, so that they can truly make a difference.

I would like the minister to clarify an issue that came up yesterday. I was told that any landfill sites that were in existence prior to the creation of SEPA remain the responsibility of the local authority within whose area they lie. That bothered me, because I do not feel that local authorities have the resources to regulate and monitor such sites properly. I would appreciate clarification on that.

Although the debate has been short, a number of interesting speeches have been made, which all

dealt with the theme of recycling. Richard Lochhead stressed that 90 per cent of waste goes to landfill. We have not made a difference on recycling, as Nora Radcliffe and Maureen Macmillan pointed out. There must be sufficient resources to deliver on the targets that everyone agrees should be met.

Alex Johnstone and Margaret Ewing spoke about the big issue of transporting waste and John Swinburne mentioned the Cathkin landfill site. What has been said about the flies is true and I am amazed that Alex Johnstone is such an expert on them. I was going to ask what happens when it is decided that the problem comes from a landfill site, but Alex Johnstone kindly answered that question. It is not only the people in Stewartfield who experience such difficulties; other people who live beside the Cathkin landfill site have a terrible time. As well as suffering from the planning blight that comes with having a landfill site on the doorstep, they have been plagued with flies, too. I hope that the joint initiative involving Glasgow City Council and South Lanarkshire Council identifies the source of the problem and fixes it.

Transportation is a significant issue, as three Glasgow City Council waste lorries have already been overturned on the way to the Cathkin landfill site. That brings me on to the ships that transport toxic waste. It is all very well to say that such waste has to be dealt with somewhere, as Alex Johnstone said, but our Government and, to an extent, our Parliament is charged with protecting our environment. It is worrying that we first learned about the ships bringing toxic waste through the Pentland firth from reading about them in a newspaper. I am sure that the minister will be as concerned as I am about that. I ask him to give us some feedback on how we can monitor such matters. The ships in question come from America. It is not as though they come from somewhere that cannot deal with toxic waste. Why are those ships bringing waste all the way across from America to be dealt with in this country?

Phil Gallie: Surely the intention is that we in the United Kingdom should use the expertise of our skilled people to treat much of that waste. Some of the waste that comes from less-developed countries could cause major pollution in those countries. A condition of the waste's coming here is that every toxic product that is produced from the transposition of the waste is sent back to the country of origin.

Linda Fabiani: That is all very well, but the fact that those ships come across into Scottish waters raises the possibility of an environmental disaster. It seems ludicrous that a convoy of waste ships should be sent all that way across the ocean. Surely there are experts on the other side of the world that can deal with the waste.

We agree that we must come into line with Europe, but I would like us to go a bit further. Why cannot we be more ambitious? Instead of just coming up with the solutions for our country, as we have done many times, why do we not finance and resource those solutions? That would enable us to make a difference and to tap into the environmental justice that practically all members say we should be tapping into.

The Deputy Presiding Officer: Allan Wilson has a strict six minutes in which to wind up.

10:25

Allan Wilson: I will try to deal with all the issues that have been raised in the limited amount of time that I have. If I cannot deal with everything, I will be happy to write to members individually about their concerns, including constituency issues.

It is perhaps inevitable that the debate has moved from consideration of the specific content of the proposed technical amendments to the Landfill (Scotland) Regulations 2003 towards consideration of landfill in general. That is probably as it should be. I welcome the support that members of all parties have expressed for the amendments. The whole purpose of the regulations that we introduced in the first session was to tighten up and better regulate existing landfill sites.

On Linda Fabiani's point about old landfill sites, sites that were closed before the creation of SEPA remain the responsibility of the relevant local authority, but SEPA retains and exercises its monitoring powers in relation to any environmental threat that is posed by those sites. Those powers apply to the broad spectrum of environmental threats, including those that old landfill sites could pose.

I was interested in Alex Johnstone's point about incineration. I want to reassure him that incineration, or energy from waste, is towards the bottom of the waste hierarchy as outlined in the national waste management plan. Recovery, recycling and reuse are all preferred to, and are better environmental options than, incineration.

Phil Gallie: Is there a massive energy deficit there? All the processes that the minister referred to consume energy. Is that not wasteful in itself?

Allan Wilson: The national waste plan acknowledges that producing energy from waste is part of an integrated approach to the management of waste. It also acknowledges that conventional techniques involving the incineration of unsorted waste are not particularly popular, as Alex Johnstone said. Although the benefits that such methods provide are limited, in that they do not

encourage recycling or reuse, we expect that up to 14 per cent of all municipal waste would be better utilised for energy recovery. We aim to meet that target by 2020. Incineration and energy from waste have a part to play in the way in which we manage waste and reduce our reliance on landfill. That is an important consideration.

Mr Home Robertson: Will the minister acknowledge the enormous progress that has been made at the cement works at Dunbar, which now burns all Scotland's waste car tyres? Their shipment and use as fuel in the cement manufacture process offers tremendous environmental advantages in reducing landfill waste, using energy potential and reducing emissions into the atmosphere.

Allan Wilson: I am pleased to acknowledge the contribution that such schemes—in Dunbar and throughout the country—make to reducing our reliance on landfill. Reuse, recycling and energy from waste schemes can all make an important contribution.

Robin Harper: What happens if the Executive's waste minimisation and reuse strategies are successful? Do we then start diverting waste that could be reused to incinerators just because we have built the incinerators?

Allan Wilson: No. The point about energy from waste and incineration is that it is the least environmentally friendly option. We prefer reuse and recycling to incineration, so we will direct all our energies into sorting waste at source and—because I believe that there is a market solution to the problem—into creating markets for the recycled products, as John Home Robertson mentioned.

It is too easy to ridicule the idea of separation of waste at source—I accept Maureen Macmillan's point about how separation has been ridiculed in the past. However, I believe that those days are at an end. The public are becoming increasingly aware that many councils are using the strategic waste fund's considerable resources to improve the separate collection of waste streams. That is real progress and considerable resources are being allocated to local funds to improve recycling. Funds are being earmarked for precisely the type of sorting facilities that Mr Harper recommends.

Richard Lochhead made an interesting point about composting. We are aware of the issue and we will be proposing further amendments to the waste-licensing regime early in the new parliamentary session. That will address Richard Lochhead's point about the European regime.

I apologise for the fact that I have not covered every point that has been raised, but I undertake

to get back to members on outstanding issues after the debate. I whole-heartedly commend the new regulations to the chamber.

Fireworks Bill

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-136, in the name of Andy Kerr, on the Fireworks Bill, which is United Kingdom legislation.

10:32

The Minister for Finance and Public Services (Mr Andy Kerr): Although today is a beautiful, sunny, summer day in Scotland, I ask members to cast their minds back to the slightly darker and colder nights of the bonfire season when they sought to reflect the views of their communities and constituents on the increasing problems with fireworks. I am glad to have the opportunity to debate the Executive's motion before the recess.

We are not all killjoys—fireworks can and do provide family entertainment and they enhance special occasions for many communities. Where I live in Strathaven, a fantastic fireworks event is organised by the local round table organisation for the community. The event is well managed and well staged in a safe and secure environment and is a good event for the community. We are not trying to deny communities anything, but we want to ensure that fireworks are enjoyed safely.

I am sure that many members share my view that in the past few years there has been a change in the use of fireworks and that that change in use is occasionally completely unacceptable. In some communities, fireworks are set off weeks—sometimes months—before the traditional bonfire season. That causes alarm and distress to elderly residents, families and the community in general, and to those with pets, including those people who rely on animals such as guide dogs.

In my community, I was extremely disappointed to find some retailers—not just the small retailers who often get the blame, but large chains—selling fireworks irresponsibly and at a discount. The adverts went up long before bonfire night. In a previous debate, I said that such retailers, if they did not get their act together, were

“drinking in the last-chance saloon”—[*Official Report*, 31 October 2002; c 14857.]

We have sought to ensure that some of the measures that members want to see enacted are introduced in Scotland.

The Executive has made it clear that such behaviour is unacceptable and we want to deal with it. We want to stamp out the injuries and the upset that are caused by the irresponsible use of fireworks.

Earlier this year, I met the Association of Chief Police Officers in Scotland's working group that is

dealing with the issue of fireworks in communities. I also met the Convention of Scottish Local Authorities task group on fireworks and I commend the work of that group and its chair, Tom Maginnis. We discussed the group's positive and wide-ranging report on fireworks.

In March, I wrote to all local authorities to draw their attention to that report and to the fact that the Executive wants to help to implement the good practice that is outlined in the report. I welcome the fact that I received a positive response from local authorities and that they are actively setting up initiatives to deal with the problem.

The Parliament has had several debates on the issue, most recently on 14 November 2002, when many MSPs took the opportunity to raise their constituents' concerns, and a variety of opinions were offered on what requires to be done. To their credit, many members have been involved in local campaigns. The importance of the issue is confirmed by the petitions and letters that MSPs have received and by what they hear in their surgeries, as well as by the shocking figures on firework and bonfire-related incidents. There were 822 incidents reported throughout Scotland on bonfire night in 2002.

I have received many letters expressing concern and asking what can be done. Many of those letters also congratulate the Executive and local authorities on the work that they have done to date, and their absolute commitment to dealing with the misuse of fireworks. I am therefore delighted to be able to explain what is happening and to ask for members' support for the Executive's approach.

Members who have kept in touch will be aware that the Fireworks Bill is a private member's bill that was introduced by Bill Tynan, the member of Parliament for Hamilton South. The Department of Trade and Industry supported it. On Friday 13 June—lucky for Bill Tynan—the bill received its third reading and has gone to the House of Lords.

The Executive has made clear its commitment to working closely with the UK Government and has had discussions with Bill Tynan and Melanie Johnson, who was until recently Minister for Competition, Consumers and Markets at the DTI. The Executive welcomed the bill and it received widespread support from interested organisations such as the Guide Dogs for the Blind Association and COSLA. The bill corresponds with the findings of the COSLA task group, and Tom Maginnis said that he is heartened by the progress that has been made so far. COSLA continues to work closely with Bill Tynan to aid his efforts to steer the bill through its concluding stages at Westminster.

The bill seeks to provide a practical response to all our concerns about fireworks. It is an enabling

bill that will allow ministers to make regulations on the supply and use of fireworks. The areas for which regulations can be made are extensive, and will allow for a comprehensive set of regulations to be introduced that will make a real difference to the quality of life of people in our constituencies.

Stewart Stevenson (Banff and Buchan) (SNP): Is the minister confirming that the Scottish ministers will have the power to introduce statutory instruments?

Mr Kerr: As the member is aware, there are several reserved and devolved areas within the regulations and controls that we want to achieve. Where appropriate, the Scottish ministers will make regulations for Scotland and the UK Government will make regulations where that is appropriate. I hope that that satisfies the member.

Of course, there will be extensive consultation with interested parties during preparation for the introduction of the regulations and the regulations will only be introduced after that. That will ensure that we have an effective set of enforceable and workable regulations.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Some members have advocated an outright ban on fireworks, arguing that the misuse of fireworks as offensive weapons requires such a ban. Will the minister clarify whether, under Mr Tynan's bill, such an outright ban would be possible?

Mr Kerr: The Executive does not believe in an outright ban. I will seek further information on the bill for the member, but I do not believe that it will enable an outright ban on fireworks. I have not had that discussion with Mr Tynan because he did not set out to introduce an outright ban on fireworks.

With an outright ban, there would be substantial issues about the illegal sale of fireworks and the underground market that would occur. There would be lack of regulation and no ability to ensure that fireworks were made to proper standards. That would drive the fireworks trade into an illegal framework, under which people would still get fireworks but no safety, security or quality standards would be applied.

Phil Gallie (South of Scotland) (Con): But is not it the case that there is already an illegal trade in imported fireworks, which we must try to control?

Mr Kerr: Absolutely. Bill Tynan's bill tries to address that. Indeed, as an indication of how easy it is to import fireworks, Bill Tynan set himself up as a trader in fireworks and managed to order almost a boatload of fireworks to be imported into the UK. Obviously, he cancelled the order at the last minute, because he did not want to do that,

but he showed, in a proactive manner, how easy it is for those who wish to mis-sell fireworks to do so. The lessons that Bill Tynan learned during that process allowed him to draft his bill to ensure that greater controls would exist.

Mrs Margaret Ewing (Moray) (SNP): Surely, then, there is a strong argument for strengthening HM Customs and Excise—the staff numbers of which have been reduced—so that we can check on such loads?

Mr Kerr: The member may say that, but I am not sure of the situation. However, it is absolutely appropriate that we work as effectively as we can to ensure that there is no illegal importation of fireworks.

Members will have seen the contents of the bill, which I do not intend to go through in detail. There are age-related powers that build on existing prohibitions on the sale of fireworks to young people. The bill acknowledges that it is inappropriate for underage people to buy fireworks. There are powers to prohibit selling, possessing and using fireworks during certain hours of the day in certain places in certain circumstances, as specified in regulations, which, as I said, will be discussed and consulted on fully before their introduction. The powers are wide ranging, and could be deployed effectively to reduce the impact of fireworks in our communities.

The supply of certain fireworks could be prohibited, as currently happens on some occasions, and that would allow limitations to be placed on the sale of certain types of fireworks. We could put limits on the noise made by fireworks, which in effect would enable the banning of nuisance fireworks. We may use that power to get round the difficulties that we face in doing that. Public fireworks displays will be regulated effectively to allow them to continue to provide popular entertainment safely for all families and communities.

I want to mention the licensing of suppliers of fireworks, which has been raised frequently by members. Responsible retailers have nothing to fear from the legislation in terms of licensing. Rogue traders have the greatest to fear, and they should be worried that the legislation will soon impact on our communities. As I said, such traders are

“drinking in the last-chance saloon”.—[*Official Report*, 31 October 2002; c 14857.]

Licensing will ensure that responsible retailers are able to sell fireworks. Training will be provided to staff. Controls will exist, but those who seek to trade illegally or irresponsibly will be dealt with under the powers in the regulations and the bill.

Elaine Smith (Coatbridge and Chryston) (Lab): Will that help to stop fireworks shops that

spring up and close down again in our communities?

Mr Kerr: Yes it will, through controls on importation, training of staff and the type of fireworks that they sell. If shops set up legally within the legal structures, their staff are adequately trained, their storage is appropriate and they operate safely, taking cognisance of the community, they will be able to sell fireworks. Most of the shops to which Elaine Smith referred are not like that and the bill will deal with that situation.

The bill deals with a mixture of reserved and devolved matters. We will ensure that we consult widely on the issues. It is difficult to separate many of the reserved and devolved matters. We will deal with that under section 63(1)(b) of the Scotland Act 1998, which will allow the Scottish ministers to exercise powers concurrently with the Secretary of State for Trade and Industry with regard to certain sections of the bill that have a devolved element. That will enable the Scottish ministers to introduce regulations in Scotland for devolved elements, while the Secretary of State for Trade and Industry will introduce regulations for England and Wales. The areas of the bill that will be covered are those that prohibit the use of fireworks during certain hours of the day in certain places and in certain circumstances, and those that cover the operation of public fireworks displays. That will allow us to regulate in those areas that have a significant impact on the general public.

We all know that inappropriate and irresponsible use of fireworks can seriously affect quality of life. That is happening in our communities as we speak. In a modern Scotland, it is completely unacceptable that a small minority can cause such stress and misery to people and animals in our communities, and on occasions blight their lives for a period of two months around fireworks night. We want to reduce the shocking statistic of 114 firework-related injuries that we saw last season. We want to ensure that we have an integrated set of comprehensive regulations throughout the UK, and that they are applied in Scotland by the Scottish ministers.

I move,

That the Parliament endorses the principle of making enabling regulations for the supply and use of fireworks as set out in the Fireworks Bill and agrees that those provisions in the Bill that relate to devolved matters should be considered by the UK Parliament.

10:46

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I begin by saying something that may not be immediately obvious to members—I am here this morning as the stand-in for Shona Robison, who is unable to be here because she is entering the early stages of labour.

I am sure that all members would wish to join me in wishing her and Stewart well. Members on these benches expect the happy news of another SNP gain by Shona Robison from labour.

Looking around the chamber, it is pretty evident that last night we had the Scottish Parliamentary Journalists Association annual dinner. I am pleased to see new arrivals skulking into the chamber even as we have this debate.

Many members from all parties have taken a close interest in and campaigned on the risks of fireworks. Sadly, some of those members are no longer here. John McAllion and John Young, to name two, played a prominent part in the previous debate on fireworks. However, it is fair to say that Shona Robison led on the issue in the first session of Parliament. I pay tribute to her tenacious pursuit of this matter, which, as the minister said, is important. Not only did she secure a members' business debate on 12 June last year, but she produced a proposal for a member's bill, which received support from all parties but one, although John Young, as he was wont to do, broke ranks in an entertaining and engaging fashion.

I have some serious points to make. In Scotland last year, there were 114 fireworks injuries. That was an increase of 25 injuries, or 28 per cent, on the year before, when there were 89 injuries. Previously, there had been 82. The trend in Scotland is for more fireworks injuries year on year. Most of those involve children and most of those children—this is perhaps no surprise—are boys. It is obvious that the problem is extremely serious. Sadly, the facts show that in England the case is the reverse. I understand—and I may be corrected here—that the number of injuries from fireworks is reducing down south; it is not rising, as is the case in Scotland.

Many incidents occur at impromptu private fireworks displays, rather than at organised events. I am sure that the majority of us here would not wish to be killjoys and would not wish there to be a total ban, for various reasons. For example, the Chinese community celebrates its new year traditionally by the use of fireworks. For reasons that I find rather difficult to understand, we celebrate the activities of the gentleman called Guy Fawkes every 5 November. I am slightly puzzled by that, because I do not see why we should celebrate the record of a failure.

Mr Brian Monteith (Mid Scotland and Fife) (Con): Surely the celebration is of the burning of Guy Fawkes, not of his failed attempt to blow up Parliament.

Fergus Ewing: Now I face the alarming prospect of seeing the world from Brian Monteith's perspective and through his spectacles. I guess that Brian Monteith would form that view—would not he?

Let us get back to the tale. Increasingly, fireworks are being used as offensive weapons. That happens all over Scotland, including in the Black Isle where I understand that a firework was put into a metal postbox, which exploded, spraying the surrounding area with potentially lethal debris. It was fortunate that no one was killed.

I think that it was John Young who referred to Corkerhill community council in Glasgow, which had cited problems of

"fireworks in letter boxes, stuffed in milk bottles, thrown under police cars".—[*Official Report*, 12 June 2002; c 12602.]

We hear about many other incidents in which youths attack fire officers with fireworks, throwing rockets at fire brigade members. Those practices are utterly unacceptable and I ask the minister whether we have not gone beyond the last-chance saloon.

Existing law, including the Explosives Act 1875, allows the use of fireworks in such instances to be regarded as the use of an offensive weapon. Indeed, the Offensive Weapons Act 1996 allows any implement that is not intended in its manufacture to cause damage to be treated as an offensive weapon if it is converted and used for that purpose.

The minister said that the Fireworks Bill does not allow an outright ban and I wonder whether that is adequate. I outlined the SNP's reasons for not arguing at present for an outright ban, but, if matters were to get significantly worse—which is a significant possibility—the Scottish Parliament should have the powers to enable ministers to introduce an outright ban similar to the ban on the indiscriminate sale of guns.

We might reach that situation, but I hope that we do not. However, if we were to do so, the lack of such a power in the bill indicates that we will take the wrong decision today if we agree to this Sewel motion. I say that based on the practical grounds that I set out earlier and not on constitutional grounds per se. The lack of such a power is the failure in an otherwise commendable piece of legislation, which the SNP supports.

Phil Gallie: Fergus Ewing talked about an outright ban. Has he checked the situation in respect of European Union single act legislation? Can the Government impose an outright ban?

Fergus Ewing: Mr Gallie makes a fair point. I hope that, with the help of the civil servants who are sitting at the back of the chamber, the minister will address that point in his concluding speech. I have not made an expert study of the issue, but I note that the bill includes the powers for UK ministers to ban the importation of fireworks. How does that power square with the operation of the free market? Would not European Union approval

be required to ban importation? I will be interested to hear what the minister will say in response to that question.

I was intrigued by a suggestion that Donald Gorrie made in the previous debate on the subject. As Donald Gorrie is in the chamber, no doubt we will hear from him again today. He suggested that the Parliament should explore the possibility of a reverse Sewel motion. Why is the traffic in Sewel motions always one way? Why not pass powers to the Scottish Parliament to allow us to deal with reserved matters? I do not know what such a motion would be called. If Mr Gorrie continues to support that suggestion, perhaps it could be named after him, but if he does not, I would be happy for such a motion to be moved in my name.

10:54

Miss Annabel Goldie (West of Scotland) (Con): I will commence by saying to Mr Kerr that, unlike the issue of business rates on which we will never agree, he might be surprised to learn that I find much in his speech to support, including the motion.

One of the quirks of Sewel motions is that it is difficult to predict with any accuracy what one is supporting. It is rather like saying that, if the car looks roadworthy and the driver says that he can drive, we should all climb aboard.

Although the motion commends itself in principle to the Conservatives, I urge the minister to liaise with the Secretary of State for Scotland, not only to remind him that there is a Scottish Parliament, but—as the bill proceeds at Westminster—to urge him to ensure that the Secretary of State for Scotland has competence under the bill to address the specific issues about the supply and use of fireworks that have emerged in Scotland.

As the minister indicated, most members who were also members in the first session of the Parliament have received impassioned pleas from constituents to do something about the current indiscriminate use of fireworks. In so far as Executive ministers are to be empowered by order under the Scotland Act 1998 to deal with devolved elements of the bill, it is important that we use the opportunity that the debate gives us to highlight the sort of activities that cause distress to people in Scotland.

Mention has been made of my colleague John Young and I, too, want to pay tribute to him. John Young expended a huge amount of energy in trying to introduce a fireworks bill in the first session of the Parliament. However, the technical complexities of the devolved and reserved aspects of the issue proved too daunting.

As has been noted in the debate, fireworks have been a traditional feature of life in Britain since

Guy Fawkes endeavoured to blow up the Houses of Parliament. A colourful, if noisy, celebration has become the tradition on 5 November with bonfires and firework displays. The Conservative group view is that there is no desire to interfere with the genuine enjoyment of children and families at responsibly organised displays. The outright ban that Mr Ewing advocates seems to me to miss the mark. The bill is about control and regulation and we do not need to focus our attention on such a ban.

Fergus Ewing: I do not advocate that there should be an outright ban. However, I believe that the Scottish Parliament should have the power, if it becomes necessary to use it, to establish such a ban. My point is that Westminster is not providing us with that power.

Miss Goldie: I have always been opposed to putative bans that ban in anticipation of the instances arising. There has to be demonstrable evidence at the point of implementing a ban that it is appropriate. If that is proved to be the case, the democratically elected fora can take the appropriate decision to apply one. Mr Ewing concedes that there is no desire at present to ban the responsible and lawful use of fireworks by children and families. The intention of the bill is to regulate areas in which it is clear that undesirable patterns of behaviour have emerged.

Stewart Stevenson: Will the member give way?

Miss Goldie: I would like to make progress with my arguments, Mr Stevenson. I am afraid that I do not have a lot of time.

One of the patterns that is emerging is that the sale of fireworks is taking place not only in the week proceeding 5 November but from September and October onwards. Fireworks are being discharged indiscriminately at all hours of the day and night. Members of the public, the elderly, young parents, pet owners and vets will testify to the misery that is caused by their peace and quiet being shattered by youngsters setting off a few bangers for a laugh.

Not much amusement is caused for the elderly person who is frightened out of his or her wits, for the young children who are rudely awakened after they have been put to bed or for the pets that have to be comforted by their owners or sedated by vets. We also have the horrific spectacle of deaths and appalling injuries that are brought about by the irresponsible or untrained use of fireworks. The minister referred to the statistics for last November.

Increasingly, families who wish to celebrate Guy Fawkes once a year support organised displays in which responsible arrangements are put in place. That pattern should be welcomed. I am slightly uneasy about the concept of licensing such

displays, because it may result in such bureaucratic regulation that responsible voluntary activists with a good safety record are deterred from continuing with them. The practical consequence of that would be for the multiple use of fireworks to return to streets and gardens.

I hope that common sense could be applied in order to permit organisations that have held regular displays to continue with them, subject to confirmation of the details of the display and an assurance that safety arrangements are in place. Most responsible users make such provisions. The displays could be covered by a permit along the lines of the licence that is granted to a voluntary organisation that seeks a temporary liquor licence for a social event.

It might seem oppressive to interfere with the right of parents to have a bonfire in their own garden and to allow the use of non-explosive fireworks, such as sparklers. What is more problematic in this day and age and with modern housing densities, is whether the use of noise-bearing explosive fireworks can be tolerated any more in residential areas.

I come to the issue that people in Scotland are utterly fed up with: fireworks being detonated in streets or other public places indiscriminately by individuals or small groups of people. I have no hesitation in saying that such practice should be made illegal and that that illegality should be enforced.

There may be issues with stricter controls over what types of firework are permissible for retail, who should retail them, to whom they should be sold and the possibility of training for organised displays. Those matters are important and merit detailed consideration. However, we should ensure that we do not set up a network of regulation that, at best, discourages responsible people from any longer being involved and at worst—and I say to the minister that it is the worst—creates an unenforceable legal framework. The Litter Act 1983 is testament to how legislation can be well intended, completely ignored and virtually unenforceable. Fireworks are far too important and potentially dangerous to end up in such statutory and regulatory disarray. Whatever changes are made must be enforceable. Enforcement is the key.

11:00

Iain Smith (North East Fife) (LD): I pass on the Liberal Democrats' best wishes to Shona Robison. I hope that all goes well for her today. I also apologise to members that I will probably not be able to stay for the end of the debate, as the Local Government and Transport Committee is meeting the General Council of County Councils from the

Republic of Ireland at lunch time and I will have to leave early.

I really enjoy a good fireworks display. I am a bit of a pyromaniac, I suppose. I like to see fireworks going off, to light them and to have a good time with them. However, it is important to ensure that fireworks are used in a responsible manner and that we are all aware of the increasing problem of those who do not use fireworks responsibly in our communities.

In the first year or two in which I was a member of the Scottish Parliament, my mailbag contained no complaints about fireworks. Last year, I had a large number of complaints about the irresponsible use of fireworks. The problem is increasing, and it is clear that the existing statutory framework for dealing with fireworks is not working, nor is the existing voluntary code on fireworks. Therefore, I welcome the bill, which will start to address the problem.

The Liberal Democrats are aware that the Scottish Parliament alone cannot deal with the matter. The issue includes reserved matters, and the Executive's approach of lodging a Sewel motion seems to me to be the right way to deal with this important issue.

I would like a licensing system for the sale of fireworks to be introduced, but I would like to go slightly further than that. Not only those who sell fireworks but those who buy them should be licensed. There should be a way of ensuring that those who purchase fireworks are responsible and use them properly. At present, there is no such requirement. Anyone can go into a shop for fireworks, although sale is restricted—theoretically—to those over a certain age. I say theoretically because, once the fireworks are purchased, they are not necessarily left in the hands of people over that age to use in a responsible manner. Many fireworks are used irresponsibly and, as Annabel Goldie said, cause considerable distress to old people and people with animals. The Scottish Society for the Prevention of Cruelty to Animals has sent a briefing that indicates some of the many distresses that have been caused to animals through the irresponsible use of fireworks.

We need to address those issues. We cannot address them in this Parliament alone, and so the Sewel motion is the right approach. The proposals in the bill, which Bill Tynan introduced, are sensible. The prohibition of the supply of fireworks to young persons is obviously the key part of the proposals. We must ensure that only responsible adults purchase and use fireworks.

We must also ensure that proper regulations exist to ensure that the types of fireworks that are on sale to the general public are safe and

designed in such a way as to minimise their capacity to be misused or to cause a problem. That includes dealing with those that essentially produce only a noise, rather than being a firework. In my view, a firework is something that shows a nice display of coloured sparks, not something that only makes a big bang. We should stop the sale of fireworks that are sold simply to make a large noise. There is no reason on earth why we should not have such a ban now.

We must consider restricting the time for which fireworks are on sale. The voluntary code, which permits their sale from three weeks before 5 November, is clearly not working. We all hear the bangs in September, which is long before 5 November. Mind you, as hotels have started to put Christmas trees up before midsummer, perhaps 5 November is coming a bit sooner than we think. We must ensure that retailers who are not willing to abide by the voluntary code can be dealt with and are not allowed to sell fireworks. A licensing system would help with that.

Ideally, we should try to encourage people not to put on their own, private, back-garden firework displays for 5 November. We should encourage people to go to organised public displays, which are obviously safer, can be policed and are better value for money, because money that has been clubbed together can produce better firework displays than the horrible little boxes with which people normally end up in their back gardens.

Miss Goldie: Does the minister feel that it is unacceptable for parents to have the right to use non-explosive fireworks with their children in the privacy of their own back gardens?

Iain Smith: I thank Annabel Goldie for promoting me back to being a minister. I have not been one of those for some time.

I am not saying that we should prevent parents from having fireworks in their back gardens, rather that we should encourage them only to go to public displays where possible and to assist organisations to put on safe public displays. That is better for all concerned.

The bill is sensible. We should not go down Fergus Ewing's route of trying to get powers for a complete ban of fireworks. Fireworks are an important part of our communities. They are used for a number of things, not only 5 November—for example, they are increasingly used at new year and for private purposes. However, to ensure that fireworks are used responsibly, we must ensure that we have better control over their sale and over those who buy them.

11:06

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): It gives me particular pleasure to

support the Sewel motion, which will ensure that our response north and south of the border to the menace of the indiscriminate use of fireworks is the same.

I welcome the fact that the Fireworks Bill is being taken through Westminster by a Scottish MP—Bill Tynan, the member for Hamilton South—as a result of the ballot for private members' bills. I congratulate Bill Tynan, whom I have known for many years through our experience in the trade union movement.

Colleagues who were members in the previous session will be aware of my direct involvement in the campaign for better control of fireworks. Indeed, it would be safe to say that I engaged in direct action, after I was approached by many constituents who were horrified that some national chains—in particular, R S McColl—had decided to ignore the national voluntary agreement on the sale of fireworks. Not only did they sell fireworks to anyone, but they sold them at half price. I cannot think of a less considerate action for the well-being of my community.

I gathered petition signatures for a number of weeks outside R S McColl shops in my constituency. On at least one occasion, R S McColl engaged security staff to move me out of the Burns mall in Kilmarnock into a rainstorm. That did not stop more than 1,000 of my constituents signing the petition but, true to R S McColl's previous contempt for the people of Kilmarnock and Loudoun, neither I nor my constituents have ever received a response from the company—which is part of the Martin's group—to our concerns, each of which I sent to the company's head office.

Actions such as that have ensured that the groundswell of opinion in favour of legislative action has grown and that the Government has been convinced to back the campaign. Promises that the Scottish Executive made in the previous session to address the issue are now fulfilled by the Sewel motion, which will improve control over the availability of fireworks and go a long way towards ensuring that fireworks do not get into the wrong hands—the hands of those who wish only to create mischief.

I will make the point clear: the hundreds of constituents who attended the public meetings in Kilmarnock and Loudoun that my Westminster colleague Des Browne and I ran, were not complaining about fireworks as such. The local vets, such as colleagues from McKenzie, Bryson and Marshall MsRCVS who spoke at the meetings, do not want a complete ban. The elderly people and animal lovers who wrote in their thousands to me are not party poopers or killjoys. All they want to do is to carry on their lives in peace and security, without the fear of fireworks

exploding in rubbish bins as they pass, or of pets being traumatised by fireworks being thrown into cars.

Such incidents have occurred in Kilmarnock and Loudoun and in every other constituency in the United Kingdom. I welcome well-organised, controlled and planned firework displays that add colour and pleasure to events such as Guy Fawkes night and many of our ethnic festivals, but I am totally opposed to the indiscriminate availability of fireworks that leads to terror in my community and, often, to injury to people and damage to public facilities such as phone booths. That is antisocial behaviour at its most obvious and, in many ways, at its worst, and we must stamp it out.

I say to companies such as R S McColl that say that the bill is an attack on commercial freedom that they have brought the legislation on themselves. They were given the opportunity to show that they could behave with concern for our communities through a voluntary code and they failed spectacularly.

It is our duty to protect our constituents from menaces such as the indiscriminate use of fireworks. I believe that, with the Fireworks Bill, we have carried out that duty. Early in our second session, we will have made a major difference to the lives of all our people. On behalf of my constituents who have campaigned for the regulations, I fully support the Sewel motion.

11:11

Linda Fabiani (Central Scotland) (SNP): The SNP fully supports the regulation of the sale of fireworks. That was shown ably by my colleague Shona Robison in the previous session in her proposed member's bill. That bill would have provided for an amendment to the Civic Government (Scotland) Act 1982 to extend local government licensing. That could have happened in Scotland last year and I still do not quite understand why the Executive was not willing to support the bill.

The debate that Shona Robison secured at the time showed the huge support that exists across the parties. There were examples from every constituency in the country of why action must be taken. The Fireworks Bill that is progressing through the London Parliament is welcome and will go some way towards addressing our concerns. I congratulate Bill Tynan MP, because I know that he has worked hard on the bill. I have seen the results of his work locally because I live quite near him. He has been active on regulating the sale of fireworks for some time.

However, I also have concerns about the bill and about the Sewel motion. We are always

concerned when Scottish legislation is made at Westminster, but we have other concerns, too. We are being asked to approve a bill that will place new duties on various public bodies, including local authorities in Scotland. Those burdens will have financial implications and we should ensure that such implications are taken into account whenever we pass legislation. No financial memorandum is attached to the Sewel motion. I find it hard to be confident that local authorities will not have to carry additional financial burdens without a legal right to reclaim those moneys.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I am sure that, in the fullness of time, local government will call on the Executive to provide additional funding to deal with the administrative cost of the regulations. Does the member agree that there will be huge savings in the public resources—from local government budgets—that are spent on dealing with fireworks incidents and complaints?

Linda Fabiani: That is something that just cannot be published or examined. Local authorities will have to finance the regulations on a daily basis. They might get money back from licensing, but there are many hidden implications, such as the extra work that local authority officers will have to undertake in licensing and supervision. Then there is the continuing training. Local authorities welcome the new regulations, but they should know that they will have the backing to implement the procedures that are being introduced properly.

Margaret Jamieson: The member talks about the impact on local authorities. Does she accept that local authorities were part and parcel of the task force and that today's motion builds on the recommendations of that task force, which had a handle on the financial impact at a local level?

Linda Fabiani: Absolutely. No one in this country would say that we should not have regulation of fireworks. Local authorities would not say that and, of course, they welcome the regulations as do all members in the chamber. However, that does not give them a guarantee that they will not have to move money from other services to implement the regulations. Comfort should be given to local authorities that other services will not suffer as a result of the introduction of the regulations.

Today we are being asked to allow Westminster to legislate on matters that are within the remit of the Scottish Parliament. We could have dealt with those matters last year, but the motion gives the secretary of state power to make regulatory statutory instruments in those areas. It seems strange that our ministers not only are not seeking to increase the powers held in Scotland, but are happy to give away and to diminish the powers that we already have.

Dr Sylvia Jackson (Stirling) (Lab): Does the member agree that the minister stated that regulations that are appropriate to Scotland will be passed here?

Linda Fabiani: Can we have some ambition? We must consider what Mr Gorrie suggested last year and what we have been suggesting ever since we entered Parliament. Why cannot we consider reverse Sewel motions? Why cannot we consider bringing back legislation that directly affects people in Scotland? Far too often we pass Sewel motions that allow London to legislate on matters that are within our remit. Let us have reverse Sewel motions. Let us have a bit of ambition and let us have the power to make more legislation here.

I welcome the principle and intent of Mr Tynan's bill, as everyone does, but I want it to be implemented as soon as possible and I have concerns about the parliamentary and local authority procedures that will get us to that point.

11:17

Robin Harper (Lothians) (Green): Last year we had a debate on fireworks that Shona Robison secured. I am pleased that today's motion endorses the Fireworks Bill, which embodies many of the topics that were covered in that earlier debate. I am also pleased that COSLA and the SSPCA were two of the organisations that played a major part in informing the deliberations that led to the drawing up of the bill.

One of the views expressed in the debate last year was about the importance of taking a UK line on fireworks. Consequently, it is appropriate that Andy Kerr's motion contains the suggestion

"that those provisions in the Bill that relate to devolved matters should be considered by the UK Parliament."

Conversely, I note a tone of frustration in many members' comments, including those of Linda Fabiani, that we have had to wait for Westminster legislation rather than being able to take swift local action.

Members here and counterparts south of the border have stressed that they are not party poopers or killjoys who advocate the complete banning of sales of fireworks to the public. However, in relation to Iain Smith's remarks, I note that the law in the Republic of Ireland—which is hardly a nation with a reputation for being killjoys—prohibits the sale of fireworks to anyone other than professional display operators.

I feel pressed to repeat a comment I made in the earlier debate. There is a licensing system down south, but the fees have recently been raised to about £2,000 for a small village or a community association to put on a fireworks display. I suggest

that those fees are punitive. If we introduce a licensing system here, I suggest that it should be properly scaled so that small communities can buy an affordable licence. It is fair to give a huge bill to those who run the Edinburgh fireworks, because they can afford it, but perhaps the Executive will review the matter and introduce a scale of charges that is appropriate and not crippling expensive for smaller communities.

Margaret Jamieson stressed the absolute misery that the inappropriate use of fireworks can cause. I have little to add to what has been said about the damage done through accidents and the deliberate misuse of fireworks. However, I draw attention to the work that bodies such as the National Campaign for Firework Safety undertake on the high level of child labour and slavery in the fireworks industry. To the catalogue of misery of the effects of fireworks on people, animals and property, we can add the horrific tally of burns, explosions, lung disease, economic and social exploitation and abuse in the countries of manufacture. That seems a high price to pay for fireworks. I support the measures in the bill to allow for controls on fireworks imports and I hope that they will be extended to include ethical as well as quality control conditions.

I support every word of Annabel Goldie's speech, particularly her remarks on enforcement. Whatever legislation and regulations are introduced, they must be totally transparent and enforceable. I commend Andy Kerr on lodging the motion, which I am pleased to support.

11:21

Mr Kenneth Macintosh (Eastwood) (Lab): When I asked my son the other day what bedtime story he would like, he said, "Daddy, tell me the one about the fox." I asked, "Do you mean the one about Brer Rabbit and the briar patch?" but he did not want that one. I said, "Do you mean 'The Animals of Farthing Wood'?" but he did not want that. As my son is only four, I assumed, with all respect to parliamentary colleagues, that he did not want to hear about our socialist colleague Colin Fox and his musical rendition of the oath of allegiance, or even Mike Watson's successful bill to ban fox hunting. When I asked my son to elaborate, he said, "I want the one with the explosions." The penny then dropped that he meant the story of Guy Fawkes. My son loves any story with explosions; he also believes that the Parliament to be blown up was this one and that I was in it at the time.

I was delighted that my son shares my enjoyment of Guy Fawkes day. When I got to the punch line of the story and the little ditty, "Remember, remember the fifth of November," I realised how much things have changed. My son

might not understand that Guy Fawkes day is supposed to happen only once a year. The celebrations now happen not only in November, but go on in October, September and December.

The situation with fireworks is analogous to the growth in road traffic. To use another domestic example, I recently drove down the street where I used to live, which has two lanes on either side and which now resembles a motorway. I do not understand how the family who live in my old house cross the road from the bus stop when they come back from the school or the shops. I do not want to sound nostalgic or to hark back to the days when jumpers were goalposts, but times change and behaviour that was once appropriate is perhaps no longer safe. We must move with the times.

I do not know exactly what has happened to fireworks, but they have turned from a source of pure enjoyment into a cause of fear, anxiety, frustration and anger. Perhaps they are cheaper, louder or more widely available now—or maybe all three. I do not have to describe to members the impact that fireworks can have and I cannot believe that any member is unaware of the problem. Cars and buses are targeted by the more irresponsible people; older people are made to feel anxious and vulnerable; and, most telling of all, there is scarcely an animal lover or pet owner who does not dread the approaching fireworks season. I use the word “season” with a sense of alarm.

Last year, my colleague Jim Murphy MP and I decided to try to capture the strength of feeling that exists on the matter so that we could demonstrate to ministers the importance of taking action. I was astounded by the result: our petition attracted not hundreds but thousands of signatures. The large bundle of papers that I am holding up contains just some of them—I did not want to weigh down my bag too much this morning. I was delighted to hand the petition to the First Minister earlier this year.

We need action. We need powers to restrict the sale of fireworks so that only those who will use them responsibly can buy them; we need to restrict the times of day at which fireworks are let off; and we need to limit the times of year at which they can be bought. In the interests of safety, we must have clearer warnings and information on the use of fireworks, recognised training courses and stricter safety criteria. Those measures might not be foolproof, but they will make a difference.

We cannot just leave the matter to a voluntary code for retailers. Last year, and earlier in the debate, my colleague Margaret Jamieson highlighted the national chain of shops that flouted the code and sold half-price fireworks well outside the three-week period around 5 November. In my

constituency, East Renfrewshire Council's trading standards officers ran a sting operation in conjunction with the police to find out how widespread the problem of under-age sales was. Every shop except one that they tried was willing to sell fireworks to young people.

The bill might not be the end of the story, but it will make a sizeable difference. I pay tribute to the work of another colleague, Bill Tynan MP, in taking his private member's bill through Westminster. I am delighted to support the motion.

11:25

Bill Aitken (Glasgow) (Con): The minister was correct to preface his remarks by stating that we do not wish to be considered killjoys. Fireworks can provide a lot of pleasure and spectacular entertainment and there can be few members who have not thoroughly enjoyed fireworks displays, both in childhood and in adulthood. However, there is a caveat—namely, that the use of fireworks must be responsible and careful.

The minister was also correct to highlight the number of incidents involving fireworks last November and Fergus Ewing rightly underlined some of the consequences that arise from the misuse of fireworks. The injuries are sometimes horrifying and not infrequently there are fatalities. By definition, fireworks are explosives, which are dangerous, and, as such, great care must be exercised in their use. However, the vast majority of problems are not the tragic ones that Fergus Ewing outlined, but the nuisance incidents that have been referred to, such as bangers being put through old people's letterboxes. As Iain Smith said, fireworks are used not only around the Guy Fawkes period, but for months on end and sometimes at the most antisocial hours.

The matter must be addressed. I am the last person to justify the nanny state, but regulation is long overdue and, with a few caveats, the bill is eminently sensible. Given that many of those who are involved in major and minor incidents are younger people, we should attempt to restrict the sale of fireworks to very young people, who sometimes do not appreciate the inevitable dangers. The bill would enable the appropriate restrictions to be put in place, along with restrictions on the times at which fireworks can be made available to members of the public. Those measures would ease the nuisance to which I referred.

All legislation risks being unduly proscriptive. Annabel Goldie was correct to say that the responsible use of fireworks should be encouraged. I draw members' attention to Glasgow City Council's Guy Fawkes day fireworks displays on Glasgow green, which is a wide open

space where there is plenty of room to keep the punters away from the fireworks. At those events, the fireworks are set off under controlled conditions. Of course, not only public authorities organise such events; sporting clubs and community councils also do so. We should not be overly restrictive and prevent such bodies from carrying out that worthwhile work, which provides a lot of enjoyment for those who live in the communities that the bodies serve.

We must recognise that the type of fireworks that are now freely on sale are somewhat different from the tuppenny bangers with which members such as Fergus Ewing and I were familiar in our younger days. Much more sophisticated devices are now available, which sometimes have concussive effects and which can cause serious damage, at least to the hearing of anyone who is within a confined radius of the detonation.

We must recognise that the bill is not perfect, but it goes some way towards allaying the concerns and fears that many members have expressed during the past four years.

11:30

Dr Sylvia Jackson (Stirling) (Lab): As has been said, this debate comes at the end of a long series of debates and should be treated accordingly. Linda Fabiani seemed to forget some of the issues that had been raised previously. At the previous debate in November, at which Andy Kerr was present, we all agreed that, because certain responsibilities lay with Westminster and certain responsibilities lay with the Scottish Parliament, it was important that we took a joint approach. We asked Andy Kerr to work closely with the ministers at Westminster to move the agenda forward.

At that time, we were aware that a bill was going to be published at Westminster. I am glad that that bill has been placed before us today and that we can agree the Sewel motion. There may be minor differences between the issues that we raise here and those that were raised at Westminster, and I shall say more about that in a minute, but the main thrust of the bill, together with the fact that we will deal with the statutory instruments here in the Scottish Parliament, provides a good basis for hoping that future 5 Novembers, if not the coming 5 November—I do not know the time scale for the implementation of the legislation—will be a lot better than they have been in the past.

I have constituency issues, as have other members who are present, which Ken Macintosh has outlined, and I have issues also as the chair of the cross-party group in the Scottish Parliament on animal welfare. That group has been at the forefront of the debate. Shona Robison is a

member of the group, as was John Young who is, sadly, no longer with us. I remember the three of us standing outside the chamber with three huge rockets in our hands as part of the dump squibs campaign that the Scottish Society for the Prevention of Cruelty to Animals was running. That campaign was hugely successful in raising awareness of the dangers of fireworks, and many people told me that they had seen it mentioned in the newspapers.

The cross-party group also worked with COSLA, and the COSLA task group was very helpful in producing a report on fireworks, which made recommendations on licensing that will be taken up. We should also take on board the comments that have been made about licensing today. Robin Harper made the extremely good suggestion that we should think about basing the cost of licences on the size of organisations. Annabel Goldie also made some good points about enforcement of the legislation, which we should consider.

Both within and outwith the cross-party group on animal welfare, many MSPs have been involved in moving this agenda forward. The campaign in Dundee was supported by Kate Maclean and John McAllion who, unfortunately, is no longer an MSP. Margaret Jamieson has also raised a lot of issues, showing how intimately she has been involved with the subject. As chair of the cross-party group, I think that those efforts show us the way forward.

The way in which the bill will deal with underage sales of fireworks is very important, as is the way in which it will be able to restrict the time of year—even the time of day—when fireworks will be sold. It will deal with the specific fireworks that will be available, the conditions for the licensing of public firework displays and the important issue of the importing of certain types of fireworks from Asia, which John Young mentioned in a previous debate. Specifically, he mentioned the Black Cat, which was described as being “detonated” because it is so dangerous.

Andy Kerr mentioned that Bill Tynan had tried to get hold of a boat-load of fireworks. I will conclude by quoting from Bill Tynan’s speech at Westminster. He said:

“The industry is concerned about fireworks that, having been imported, do not go to a licensed storage place. The drivers therefore have no need to register that they are driving to a storage place and sometimes drive to a lay-by and split their load between perhaps 12 rogue retailers, who then sell the fireworks indiscriminately over three months.”—[*Official Report, House of Commons*, 13 June 2003; Vol 406, c 978.]

That is the type of practice that we must stop.

I welcome the bill and look forward to seeing the necessary Scottish statutory instruments at the Subordinate Legislation Committee.

11:35

Mrs Margaret Ewing (Moray) (SNP): After 22 years as an elected member in public service, I can tell members that this is not a new issue. It has been a perennial problem that comes up year after year, as people who have served in Parliaments, councils and so on will know. I am glad that some progress is finally being made on the issue. We are all horrified by the statistics. Last year, around 114 people were injured in the Guy Fawkes season, as Ken Macintosh called it. Many of the casualties are youngsters who need long-term hospitalisation, plastic surgery and treatment. Therefore, we must look very seriously at where we are going on this issue.

Members have said that we do not want to be regarded as killjoys. I love firework displays and have happy memories of watching organised displays such as those at Edinburgh Castle at the end of the Edinburgh International Festival or at the new year celebrations. However, we must put the matter into perspective. We are not talking about sparklers or the tuppenny bangers that were referred to earlier, nor the Catherine wheels that I remember from my childhood. We are talking about what Shona Robison opened her speech with in June last year. She quoted the sales pitches of firework manufacturers:

“The Atomic Warlord is

‘Like a nuclear holocaust as this 112 shot barrage vents its might and ferocity.’

The Midnight Thunder is a

‘25 shot, very very loud air bomb. Not for the weak hearted. Available for under £8.’”

She went on to tell us that the Black Cat firework,

“which weighs 21lb, has a greater velocity than many mortar bombs. The advice is that it should not be detonated within 80ft of a structure.”—[*Official Report*, 12 June 2002, c 12602.]

In my view, those items should not be for sale anywhere in this country.

I cannot understand why Shona Robison’s proposal for a bill was not accepted. It would have involved a simple amendment to the Civic Government (Scotland) Act 1982, which would have been of great importance for trading standards. The Scottish Parliament was founded on the principle that there would be consensus and agreement on good ideas, regardless of which party they came from. I cannot understand why there was no consensus last year on Shona Robison’s proposed bill. If the Executive had given it the support that Bill Tynan’s bill is now receiving at Westminster, it would already be on the statute book and working.

Andy Kerr has said, on several occasions, that he will discuss these issues with the Secretary of

State for Scotland. I earlier raised the concerns of HM Customs and Excise officials who have expressed to me their concern at not having the facilities to monitor the importation of fireworks from Asia. When Andy Kerr is in discussion with the secretary of state—two-jobs Alistair Darling—he could perhaps discuss the way in which Customs and Excise officials are monitoring the arrival and transportation of the kinds of fireworks that we have been talking about.

I could recite a litany of the issues that have been raised with me. People with learning difficulties, people with mental illnesses and our elderly people are terrified by the indiscriminate use of fireworks. The SSPCA has pointed out that, last year, 8,000 animals required veterinary treatment because of firework-related injuries. Those animals included hearing dogs for the deaf and guide dogs for the blind. In rural communities, where large fireworks are sometimes taken out into remote areas, cattle and sheep can stampede, causing great damage to themselves, to the local environment, to property and, potentially, to people.

I wish Bill Tynan well and hope that the unelected members of the House of Lords will give the bill a fair wind as it goes through the hearing process. However, the Parliament has a duty to consider carefully how to go further than the Sewel motion. The Subordinate Legislation Committee should consider the issue seriously and statutory instruments should be drafted to strengthen the Parliament’s powers and implement the type of legislation that we want.

11:40

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I welcome the opportunity to speak in support of the motion. As other members said, the nuisance that the irresponsible use of fireworks causes and the size and explosive power of the fireworks that are on sale in local shops and supermarkets are not acceptable. Communities and individuals who suffer from the nuisance say that enough is enough. They expect the Government and the Parliament to act to protect them.

The problem affects not only the people of Scotland but people throughout the UK. Therefore, it is right that we support the UK legislation. Labour members acknowledge that there are three different Parliaments in the UK and that three different sets of politicians make legislation. We will work in partnership with the other legislative bodies to ensure that we have legislation that protects the people in our communities.

The use of fireworks outwith the traditional time of late October and early November has been

widening, as members have acknowledged. Members have also acknowledged that the voluntary code does not seem to work and that, in many cases, it is being ignored. People feel that there is a free-for-all, in which irresponsible traders sell fireworks to children. Such traders do not have an eye on safety or civic responsibility. Their minds are focused on profit and the ring of their tills, and they have no regard for the voluntary code or for the local community—their customers.

Like other members, I receive regular complaints from individual constituents and from community organisations about personal trauma and extensive damage caused by fireworks being in the wrong hands. Responding to fireworks incidents takes up a lot of time for our police and fire services. Police from a station in my constituency said that, during a four-week period in October and November, 104 firework-related incidents were reported, the majority of which involved people under the age of 18, although the sale of fireworks to under-18s is banned.

The seriousness of the incidents varied, ranging from those that caused public annoyance to a incident in which a rocket firework was put through the letterbox of a family home in which six young children lived. Fortunately, an adult occupant extinguished the firework. But for his quick action, the incident could have been far more serious. The Royal Mail reports disruption and major problems when fireworks are let off in postboxes. Last year, three postboxes in my constituency were damaged and were out of commission for almost a week. That is the kind of disruption that the irresponsible use of fireworks can cause to local services.

The use of fireworks in the wrong hands places considerable demands on our public and emergency services and causes an ever-increasing number of injuries that maim people for life. Fireworks affect all areas and all ages, and can threaten humans and terrify animals. Given the possible effects of fireworks, legislation that will allow ministers greater powers of prohibition and regulation is welcome.

If I were asked for my personal view of fireworks, I would say that all sales of fireworks to the general public should be banned and I would require individuals who are qualified in pyrotechnics to hold licences.

Fergus Ewing: If Cathie Craigie supports a general ban on fireworks, would she agree that Bill Tynan's bill is inadequate because it does not permit a general ban?

Cathie Craigie: If Mr Ewing listens and lets me develop my point, he will find out exactly what my view is.

As I said, if I were asked for my personal opinion—I emphasise the word “personal”—I would say that all sales of fireworks to the general public should be banned, that people should have to hold licences to use fireworks and that only suitably qualified people should be eligible to set off fireworks. However, I know that my view is not shared by my constituents in Cumbernauld and Kilsyth. I imagine that my view is not shared by the majority of people who use fireworks responsibly and consider their neighbours, and who enjoy the spectacle of fireworks and the thrills and entertainment that they can provide.

Like me, supporters of Bill Tynan's bill across all parties do not want to be regarded as killjoys or damp squibs. We do not want to encroach on people's enjoyment or threaten the livelihoods of those who work in the pyrotechnics industry. We do not want to put off people such as Iain Smith—unfortunately, he had to leave the chamber—who spoke about his great enjoyment not only of watching firework displays, but of setting off fireworks.

I would like there to be more organised firework displays. Ken Macintosh said that fireworks have become increasingly available over the years, that they are louder and noisier and that more people buy them. I do not know why that is the case, but that has happened while increasing numbers of local authorities have been encouraging and organising displays that families can attend.

I do not particularly like fireworks and I would go only to an organised display. However, I remember that when I was a child the most important thing about Guy Fawkes night was not the fireworks but the sausages and—

Robin Harper: Bangers! [*Laughter.*]

Cathie Craigie: Exactly. And we got toffee apples, which were on sticks of the same thickness and length as a rocket stick. However, rocket sticks are now so long that they could be used to train sweetpeas. People who are involved professionally with fireworks agree that large rockets—which have a high velocity—should not be on sale to the general public. Such rockets are powerful explosives and in the wrong hands they can cause a great deal of personal injury and wider damage.

People believe that enough is enough. The voluntary codes are not working and irresponsible local traders are flouting the law. National shop chains—to which Margaret Ewing referred—sell fireworks outwith the agreed period. I was amazed last year to see an offer in a supermarket—part of an otherwise responsible chain—for customers to buy one pack of fireworks, which included enormously powerful rockets, and get another free. People queued to take advantage of the

offer. Perhaps they intended to use the rockets responsibly. However, the noise that such rockets can make in a residential area is unacceptable. I believe that the supermarket chain showed not only a disgraceful lack of civic responsibility, but a lack of responsibility to its customers by allowing such fireworks to be sold in the way that they were.

By supporting the Fireworks Bill we will set in motion mechanisms that will lead to regulations that will herald the day when fireworks can again be enjoyed by the majority of the population as fun and entertainment, without fear of endless barrages of noise and their associated danger. I hope that we make early progress in consulting our communities, the fireworks industry and other involved parties to ensure that by next year's firework season, if not by this year's, we have regulations that protect our communities.

The Deputy Presiding Officer (Murray Tosh):

We go now to the closing round of speeches. We are a bit ahead of the clock, so I am happy for closing speakers to take a couple of minutes longer, which would give them six minutes.

11:48

Donald Gorrie (Central Scotland) (LD): I pay great credit to Bill Tynan, whose bill is an admirable example of a private member's bill that meets a serious local concern that Governments have neglected. The bill has widespread support from all political parties in the House of Commons and I hope that it will have similar support in the House of Lords.

The history of fireworks goes back a long way. My understanding is that the Chinese invented gunpowder and used it in fireworks. They passed their knowledge on to Europeans, who then used gunpowder to kill people. Perhaps there is a lesson there. However, there is now another wave from the east of excessively devastating fireworks with which we must deal differently.

Such fireworks certainly have much louder bangs than any that I met during my two years of national service working with anti-aircraft guns and they cause worry and devastation to individuals and their animals, and fear and alarm to citizens in general. The bang element of fireworks used to serve to spread the sparks about, but today many fireworks are just a big bang.

Like other members, I have been involved with this subject for some time. When I became an MP, I met and tried to help a very active group in Muirhouse, in west Edinburgh, which at the time was taking the lead in pursuing the issue locally. My successor, John Barrett, has supported the group vigorously. He tabled a motion on fireworks in the House of Commons and is one of the many

strong supporters of Bill Tynan's bill. As MSP for Central Scotland, I found that a group in Falkirk was particularly concerned about the impact of fireworks on animals. Both humans and animals suffer severely from fireworks.

I have laboured—without great success—to produce an analogy between bad, ranting political speeches and fireworks. Fireworks have too long a season, and many speeches go on for too long. Fireworks have more noise than substance, as do some speeches. Some speeches have a short-lived sparkle, like fireworks. Some speeches also frighten the people who hear them. We can learn that we should control both ourselves and fireworks.

Fergus Ewing: In the previous debate on this topic, Donald Gorrie argued:

"We should also explore the possibility of a reverse Sewel motion".—[*Official Report*, 12 June 2002; c 12611.]

Has that rhetorical bang become a whimper?

Donald Gorrie: I do not know whether it was a bang, but I intend next to address the issue that the member raises. The idea of a reverse Sewel motion is worth pursuing. I would be happy to cooperate with Fergus Ewing and anyone else who is interested in working up the proposal properly and submitting it to the Procedures Committee. In some cases, it may be possible for us to trespass on Westminster's powers, instead of conceding powers.

Bill Tynan's bill does not go as far as some people would like, but it deals with the question of fireworks sensibly. Most of the points to which it relates are issues for Westminster rather than for the Scottish Parliament, so we should support the bill. However, I would be happy to examine the way in which we treat such matters. Perhaps we could create a Ewing-Gorrie convention—double-barrelled names such as the Northcote-Trevelyan reforms are better than single-barrelled ones.

I stress the point that other members have made about enforcement. We are very good at passing bills to which no one pays attention. People are worried about drink, but the severe laws that exist for dealing with that problem are not enforced. The same may happen in the case of fireworks. Enforcement is critical.

Robin Harper: Does Donald Gorrie agree that the litter laws are a prime example of legislation that has hardly ever been enforced?

Donald Gorrie: Absolutely. There is an analogy between dog fouling and fireworks. In the past, dogs were considered a good thing. They still are, but 30 years ago if a councillor came out against dogs, they would be dead. Now it is recognised that dogs must be controlled and can cause a great deal of trouble. The same is true of

fireworks. They used to be a good, cheerful, happy thing, but in many cases they have gone too far and must be controlled. They do not need to be banned, and neither do dogs. However, the way forward is for both to be controlled in a civilised way.

I am happy to support this Sewel motion.

11:54

Phil Gallie (South of Scotland) (Con): I will horrify Donald Gorrie by identifying in part with his agreement with Fergus Ewing on reverse Sewel motions. I do not advocate reverse Sewels, but if we sign up to the proposals of the European convention I suspect that I would be happy to join members in supporting some kind of reverse Giscard. However, that may be some way into the future.

Just as fireworks can become a nightmare for some, this debate is to some extent a nightmare for me. I hate participating in debates in which everyone is saying virtually the same thing and in which there is total agreement across the chamber. That is the situation that we face in respect of the Fireworks Bill.

The Fireworks Bill is not a detailed bill, but an enabling bill. A great deal of work must be done on its provisions. Virtually every section specifies that action “may” be taken in particular areas. In due course, ministers will be required to address the issues through regulation. It is right and proper not only that ministers at Westminster should do that, but that Scottish Executive ministers should take specific actions and produce regulations that suit the scene in Scotland.

Much has been said about the irresponsible use of fireworks on the urban scene. The rural scene is also very important. Sylvia Jackson and the cross-party group on animal welfare have continually highlighted the problems that fireworks cause for animals. The impact of fireworks is not limited to domestic pets. In the countryside, too, animals are very much affected. Fireworks can have a particularly damaging effect on horses, even when the two are not in close proximity. This is not just an urban issue—it affects the whole country.

Fergus Ewing: I agree with Phil Gallie about the misery that is caused to animals of various types by the explosion of fireworks. As far as the animals are concerned, surely it makes no difference whether the firework display is legal or illegal—authorised or unauthorised. The lack of the power to impose an outright ban on the use of fireworks is a gap in the Fireworks Bill. In future, evidence may emerge that an outright ban is the only measure consistent with animal welfare.

Phil Gallie: I have questioned whether it would be possible to impose an outright ban on fireworks

in the UK, given European regulation. Earlier, the minister undertook to respond to that point. I support licensing and regulation of the use of fireworks where that is a continuous process. However, when consent has been given for specific shows, animal owners can take note of that and make arrangements to cover the situation. I do not support an outright ban on fireworks; that would not be right. However, as Annabel Goldie said, we must guard against indiscriminate use of fireworks.

It has been suggested that this problem has come to the attention of the public because the situation is getting worse. I am not sure that that is entirely true. I remember that in my youth—which was much further back than that of many in the chamber—penny and tuppenny bangers were freely available in all local shops and were used indiscriminately by youths. However, at that time activity was more concentrated and appeared to centre round 5 November, rather than extending over the September-to-December span to which Ken Macintosh referred. Horror of horrors, I wonder whether that was related to the fact that at the time virtually every street and most schemes had a bonfire, round which activities centred. I recognise that there are dangers in setting up bonfires and do not advocate that—I am simply making a point about the difference between the use of fireworks in the past and their use today.

A major change is the size of the fireworks, to which Linda Fabiani and Cathie Craigie referred. Some of the fireworks on sale today have a huge explosive content. My colleague John Young felt very strongly about that in the first session of the Parliament. I am sure that he would have loved to be here today to congratulate Bill Tynan—a Scottish MP—on taking the issue to the Westminster Parliament and giving us the opportunity to sign up to something for which he long campaigned. I am certain that he would have approved totally of our accepting the Sewel motion. It passes on huge responsibility to the Minister for Finance and Public Services and I look forward to hearing about the kind of regulations that he thinks are appropriate.

My final point goes back to what Robin Harper said about the licensing fees. Some of the responsible groups that organise firework demonstrations at key points in the year do so on relatively low budgets or on the basis of raising funds. Another factor that worries me relates to the fact that many of those groups attempt to organise insurance to cover their events. A major problem is building up with the level of charges for insurance cover. We have to be careful that we do not kill off what we all see as the preferred option—the organised and in some cases professional use of fireworks, rather than the indiscriminate use of fireworks.

12:02

Stewart Stevenson (Banff and Buchan) (SNP): I thank Iain Smith for his good wishes for Shona Robison. I am not quite sure what stage her pregnancy has reached. I think that she has had an early warning and we should not necessarily expect an outcome today. I also hope that when Sylvia Jackson said that John Young was no longer with us she was referring merely to his absence from the chamber. I can see members nodding to indicate that our dear friend is, in the more common and general usage of the term, still with us. I welcome that assurance.

It has been a cracker of a debate, full of explosive interventions, which have all clearly gone down a bomb. Having said that, this is not a matter for undue levity. Few of us do not look with awe at the fireworks concert each year, just down the hill from here. However, equally few of us do not share horror at the disfigurement, injury and even death that occur all too frequently during what seems an increasingly long fireworks season, or at the alarm and fright of animals that do not understand what is going on.

The real question is what to do. My colleague Shona Robison secured a members' business debate on a proposal for a bill to regulate the sale and use of fireworks in Scotland. It is clear that members, on the SNP benches and throughout the Parliament, think that there is a need for change.

Elaine Smith: The SNP members have talked about the possibility of a total ban. Will that apply not to organised firework displays, but to sales of fireworks to the general public? Will the member comment on illegal imports and the problem that people are able to buy fireworks on the internet?

Stewart Stevenson: Elaine Smith makes good points. I reiterate what Fergus Ewing said; we are not seeking a total ban on either the private or public purchase and use of fireworks. However, the bill might be the appropriate instrument to ensure that powers are available to ministers to introduce a total ban on private or even public use of fireworks if circumstances change. I will return to the detail of the bill in a minute or two.

Linda Fabiani referred to the lack of a financial memorandum. We do not know the potential cost to councils, businesses or to police. We know the cost of the present circumstances—Strathclyde police had 2,000 calls about fireworks last year. Under clause 17(2) of the bill, any revenues that are derived will be paid into the consolidated fund at Westminster, so we will not get the benefit.

There has not been any explanation so far of what particular powers the Scottish ministers might exercise as a result of the bill and I would welcome clarification of that.

We have a good record of speedy action in this Parliament but we cannot deny that, although we have been talking about fireworks for a long time, we have not delivered anything. The question is whether Westminster or Holyrood should act. SNP members are not going to oppose the motion, although we are minded to abstain. Is the Scottish Parliament, as a matter of general principle, prepared to go along with ceding responsibility, or is it going to take control?

Elaine Smith: Will the member give way?

Stewart Stevenson: I am going to develop some points about the bill; I will try to come back to Elaine Smith later.

I have specific questions about the bill. Consultation is mentioned in clause 2(3). Would that include the Scottish ministers and the Scottish Parliament or its committees? What particular regulations would it enable us to make?

Under clause 4(1) and clause 4(2) there are provisions against possession under some circumstances, but unless I am missing the point, there does not seem to be a general provision banning possession. Perhaps the minister will clarify his previous remarks.

Fergus Ewing has been teasing some members a little bit about whether the bill provides an absolute power. My reading of it suggests that it does. Under clause 2(1)(a), ministers may act to reduce use to a point at which there is no risk. The succeeding subsection refers to their being able to act to reduce risk. The only way in which we can ensure that there is no risk is to ban the use of fireworks altogether, unless I am misreading the bill.

It appears to me that in line with the campaign that the *Daily Record* has mounted and in line with Paul Martin's campaign it would be possible, under the eventual act, to enforce a complete ban. I would welcome the minister's views on that in his summing up.

Phil Gallie: Stewart Stevenson referred to clause 2(1)(a), but it seems from clause 3 that the total ban would apply only to supplying young persons. Does he therefore agree that there would not be an all-encompassing ban?

Stewart Stevenson: The member will find that clause 2(1)(a) refers to clause 2(2), which mentions the death of animals or persons and disruption or damage of property. My question whether there could be a ban is genuine; I am not making a party-political point. That illustrates the point about the sort of things that the Parliament could examine in detail if we had the opportunity to do so. After all, the last clause of the bill—clause 19(2)—states:

"This Act does not extend to Northern Ireland."

There is no Assembly currently operating in Northern Ireland and yet, although there is a Parliament—not an Assembly—operating here, we will not have the opportunity to examine the measures in detail.

Cathie Craigie: Will the member give way?

Stewart Stevenson: How long do I have, Presiding Officer?

The Deputy Presiding Officer: Strictly speaking you have 30 seconds, but you have taken several interventions, for which I will compensate.

Cathie Craigie: There is a complete ban in Northern Ireland. That has nothing to do with whether Northern Ireland has an Assembly or a Parliament; it is because of the political situation there.

Stewart Stevenson: I am obliged to Cathie Craigie for that information, of which I was not aware.

Contravening prohibitions imposed by regulations is an offence under clause 11(1) of the bill, but clause 11(5) stipulates that

“Fireworks regulations may not provide for any contravention of the regulations to be an offence.”

It is not at all clear what will and will not be an offence.

We are often assured that Sewel motions speed solutions, but it is not clear that, in this specific instance, that will be the case.

Elaine Smith: Stewart Stevenson mentioned Sewel motions before. I am no great fan of Sewel motions and I express concern about the 46 that were passed in the previous session. However, it seems to me that Sewel motions are allowable for a good reason, and the Fireworks Bill is one that fits in with the ethos of Sewel motions. It is an enabling bill and the minister has said that there will be consultation on it, so it would be rather churlish of the SNP to abstain on the motion today. Does not Stewart Stevenson agree that the bill will help us to make a difference in Scotland and that the Sewel motion is sensible?

Stewart Stevenson: I thank Elaine Smith for her intervention. The SNP is not opposing the Sewel motion—she will recognise that that is slightly unusual—because we want to make progress and we are not going to put up barriers. However, ministers must be aware that they are very much on trial with this Sewel motion, as with others, to deliver the benefits that they claim will result from ceding responsibility to Westminster. With the Fireworks Bill, as with other bills, we will be tracking progress carefully to see that those benefits are actually delivered. As Nelson did not say, “Scotland expects.”

The Deputy Presiding Officer: I now call Andy Kerr to wind up the debate. We are ahead of the clock, Mr Kerr, so please take as long as you feel you need to respond to the points that have been raised.

12:12

Mr Kerr: It is difficult to know where to begin. There have been many valuable contributions to the debate.

Before I go any further, I would like to say that, although I am not sure how to describe Shona Robison’s situation at the moment, I echo the sentiments of other members around the chamber, and we all wish her and her husband all the best.

Great credit is due to Bill Tynan, whose bill has enabled us to address the needs of our communities. Constitutional niceties may not be at stake for the SNP in this instance, but what is important is that we deal with the issue. I shall go on to talk about Sewel motions in a wee bit more detail, but it is a bit rich of SNP members to say that they want action and then, when we have an opportunity to do something, to turn their noses up at it.

The Parliament has passed a number of Sewel motions since devolution and there has not been a single occasion on which the effect of such a motion was to remove powers or functions from the Scottish ministers. A Sewel motion enables the Scottish ministers to ensure that we benefit from UK legislation and that those aspects of such legislation that are devolved to this Parliament are dealt with by this Parliament and by the Scottish Executive. That is the important point. The SNP seems to be arguing that it is somehow inappropriate to do that, but we are ensuring that the functions that are our responsibility will be dealt with. Indeed, when a Sewel motion was invited on the Extradition Bill, the Scottish Parliament and Scottish Executive actually got powers, so it is a bit rich of the SNP to go on about constitutional issues.

In our communities, where people want us to take action, we do not want to have to say that the bill was delayed because we had to spend hours with lawyers agreeing what was reserved and what devolved, what was to do with trading and what with local government, and which powers lay with us and which with Westminster. What people in our communities really want to know is when we are going to deal with the issue. We will deal with it through the Fireworks Bill and will do so as soon as possible.

Linda Fabiani: Will Mr Kerr give way?

Mr Kerr: I will allow Linda Fabiani to intervene in a moment, as I also want to address some of the points that she made in the debate.

I would like to go through some of the comments that members have made. I point out to Fergus Ewing that the intention of the bill is not to introduce a complete ban on the sale of fireworks. The bill provides powers to control locations and timings. It could be argued that the location is Scotland and the timing is from 12 midnight to 12 midnight on a certain date each year, so it is possible that there could be a total ban. However, the point that I am making is that it is not the intention of Bill Tynan, of the DTI, of COSLA or of the Executive to use the bill in such a way. To answer Fergus Ewing's question, there is a theoretical possibility of a total ban, and I hope that that answer puts him at ease.

Fergus Ewing: My question to the minister is really quite simple. Does the bill give the power to introduce a total ban on the sale of fireworks—yes or no?

Mr Kerr: What I have tried to say is that the powers are there but that Bill Tynan's intention, as well as that of COSLA, the DTI and all the organisations that were consulted, is not to do that.

Of course, if anyone wants to ban the use of fireworks at Up-Helly-Aa, the Edinburgh festival, hogmanay and other such events, they can propose that during the deep and meaningful consultation that will take place as a result of the introduction of the guidance and regulations surrounding the bill. Let us get this into context: it is about introducing the most appropriate measures to solve a problem in our communities. That is what the motion seeks to do, that is what Bill Tynan seeks to do, and that is what the Scottish Executive seeks to do.

Linda Fabiani: The minister accused the SNP of trying to hold things up because of constitutional niceties. Will he accept that if the Executive had supported Shona Robison last year with an amendment to the Civic Government (Scotland) Act 1982, the regulations could have been implemented more quickly? The Executive used that method when it introduced an amendment to the Civic Government (Scotland) Act 1982 as an emergency measure in relation to houses in multiple occupation. It was the fastest way to make a difference.

Mr Kerr: I fundamentally disagree with that and that is what we said at the time. This was about ensuring that we do not spend all our time trying carefully to draw lines round the constitutional map of the UK to find out what the Parliament has powers to do and what it does not have powers to do. What we have here—Donald Gorrie mentioned the use of double-barrelled names—is Westminster-Holyrood and Holyrood-Westminster working in concert to solve an issue within our communities.

The route that Linda Fabiani suggests was ill-advised because many of the powers that we wanted were reserved. We should not forget that the Scottish people said at the election that they did not want separation and divorce, or Scotland to be a separate state, but that they wanted to work in partnership with the UK Government. That is what the Executive is doing through this legislation.

SNP members have been fairly grudging, although there has been welcome for part of the motion. COSLA, however, demands action and supports the Tynan bill. COSLA understands that when we discuss regulations, matters such as resources and financing will be clarified. If appropriate, there will be adequate resources from the Executive. Local authority enforcement officers and environmental health officers want the power to act forcefully within communities to ensure that fireworks do not continue to be the hazard that they are today.

I would argue therefore that, while there was some grudging welcome from the SNP on the matter, its position does not reflect the position within our communities. As Margaret Ewing said, we have a good idea from Bill Tynan, which COSLA, the Department of Trade and Industry and most members of the Scottish Parliament support, yet the SNP cannot bring itself to admit that it is a good idea and to support it. I am surprised by the SNP's position of abstention on the bill.

I will try to address the issues raised by Mr Stevenson, but if I do not get through them we can correspond on the issue. Elaine Smith made an interesting comment about internet purchasing. How we deal with that is the subject of continuing discussion. It is an extremely difficult area. I know that that was not one of Mr Stevenson's points, but it arose during his speech.

On the consolidated fund and where the money is going, let us not forget that in recent years, in partnership with the UK Government, the Executive and the Parliament have received unprecedented resources from the UK. Those resources will have risen from £16 billion in 1997 to £27 billion by 2006. I would not argue about money when we consider the size of the consolidated fund. Separation and divorce would cost the Scottish taxpayer many thousands, if not millions, of pounds. It was significant that Stewart Stevenson's big question was, "Westminster or Holyrood?" My big question is, "When are we going to deal with this issue to ensure that our communities are protected from the menace of fireworks?"

Phil Gallie introduced an interesting aspect to the debate that I had not considered in detail, which was the rural dimension. I will continue to

work with partner organisations to ensure that we address that issue.

Many members asked how regulation would work. I give them an absolute assurance about the consultation that will take place. We will work through the Parliament's committees and with our partners to ensure that regulation is properly carried out.

We must consider insurance, because what we do not want to do, as a result of this process, is prevent responsible firework demonstrations and evenings.

Phil Gallie: Will the minister give an assurance that, if he is responsible for the legislation that introduces a charge on licensing, he will ensure that public bodies are not charged at a different rate than voluntary bodies and other organisations? There should be a common rate.

Mr Kerr: I will not give that assurance as it might be decided that charitable and voluntary organisations should pay a lower rate than other bodies. I have discussed the matter with Bill Tynan and am aware of the numbers that are being bandied about. However, it would be unfair to discuss that just now, as it will be the subject of the discussions on regulation and licensing that we will have in due course.

Fergus Ewing: As the Minister for Finance and Public Services, Mr Kerr will be concerned about the ultimate cost—which could be quite substantial—of any regulations that are brought forward. However, what proportion would that ultimate figure be in relation to the figure of £338 million, the previous estimated cost of the Holyrood project, which the minister described as a “drop in the ocean”?

Mr Kerr: I will give Mr Ewing the transcript of the Radio 5 Live interview during which that comment was made so that he will realise that his use of that quote is—as ever, from the SNP—a mischaracterisation of my words as a result of a deliberate misunderstanding of what was said during the show.

As Bill Aitken said, young people are affected by their so-called friends and other young people terrorising them with fireworks. He talked about tuppenny bangers, which I do not remember, but what he said about other devices, such as air bomb fireworks and the Black Cat was absolutely right. Members who have seen the Black Cat, which is now banned, will know that it looks like a mortar bomb and is a frightening thing.

Donald Gorrie expressed support for Bill Tynan and talked about community groups. His speech was welcome, as it talked about the consultations that have been going on for many years on the subject. I was not sure about his concluding

remarks about the best way in which to deal with the situation, however.

Margaret Jamieson demonstrated exactly what MSPs should have been doing in relation to this issue. When large retail chains, such as R S McColl, choose to act irresponsibly, it is our duty to tackle them. I congratulate her on the work that she has done. I strongly share her view that this legislation fulfils a promise of the Executive.

Cathie Craigie was right to say that enough is enough and that this proposal demonstrates partnership working. She was also right to acknowledge that her desire for a ban on all sales of fireworks is not shared by everyone. However, I say to her that these are still early days. I hope that Bill Tynan's bill, when its provisions are delivered through regulations, will deal with the problem that we face. However, if it does not, we will have to return to the issue. That is not to say that we would change the regulations or the legislation, but I want to make the point that the changes that various organisations called for will be implemented through Bill Tynan's bill. That suggests to me that we should try to make the legislation work rather than criticising it from the start.

Sylvia Jackson mentioned the work that has been undertaken by Bill Tynan, COSLA, police officers and UK ministers. I support her acknowledgement of that work.

Someone beat me to my next point. Sylvia Jackson's comment that, sadly, John Young is no longer with us, was a bit unfortunate. What she meant was that he is no longer in the Parliament. I am glad to be able to clarify that point.

I give Robin Harper an absolute guarantee that we will consult community organisations on the point that he raised. He made an interesting point about child and slave labour, which the Westminster Parliament will address and which we can all address as consumers by having regard to fair trade purchasing and so on. Whether that is possible in relation to fireworks is an interesting point and one that we might encourage others to develop.

The idea of Ken Macintosh asking his four-year-old son to elaborate was an interesting example of how one speaks to a young child. I am sure that that is a gross misrepresentation of the situation, but Ken Macintosh said it, so I am entitled to have a bit of fun with him.

It is true that Annabel Goldie and I will never agree on business rates, but we will continue to have discussions with the business community. I assure her that I will continue to liaise with the UK Parliament, including the Secretary of State for Scotland. We want to ensure that we consult on licensing. Annabel Goldie used the term, “common

sense”, and I hope that she agrees that the way in which we are dealing with this legislation demonstrates that we are taking a commonsense approach. She also hoped that we would get the balance right. I assure her that we intend to get the balance right by consulting heavily on the regulations that will flow from the bill.

Elaine Smith: Had I realised that there would be time, I would have spoken in this debate, but I will settle for making an intervention.

I associate myself with the minister’s earlier comments that commended the work of COSLA and the work of Tom Maginnis and the task force in particular.

Can any further steps be taken by, for example, introducing a uniform recording system to improve the monitoring of firework-related complaints and incidents and perhaps assess the impact of the new measures?

Mr Kerr: I have had discussions with senior police officers in Scotland about that matter. They are seeking to obtain systems that will reflect and ensure that we properly record firework-related incidents, which will allow us to make a real impact in our communities. The cost to the public purse of having to respond to such incidents is also important.

We are talking about a difficult enforcement issue. The matter is not just about powers and how the legislation can be made to work positively, but about catching young people—if indeed it is always young people who are involved; I am not sure that that is the case. Catching those who misuse fireworks is a difficult task. On dark evenings when it is nearly winter, it is difficult for police to respond to calls and catch those who are offending. We want to cut off the supply at source by ensuring that retailers act responsibly, staff are properly trained, codes of practice are applied and regulations are stuck to. That is our approach.

Elaine Smith: COSLA’s view is that the co-operation of the Crown Office and other relevant agencies of the judiciary must be obtained to support and reinforce the view that firework nuisance and abuse cannot be tolerated as acceptable behaviour. Does the minister have any ideas about how such co-operation can be progressed?

Mr Kerr: We should manage to deal with many significant problems by working through the regulations process. We give an absolute assurance that we will make an impact on and influence the progress of the matter through Westminster in respect of engaging with the regulations that will be created in the reserved and devolved areas. Mr Stevenson spoke about such matters. We will ensure that we will deal with things in the usual manner and that we will consult

widely in civic society and throughout Scotland. We will use the parliamentary committees to ensure that such matters are addressed.

Stewart Stevenson also mentioned consultation and made some detailed points about the legislation. I have tried to address consultation. The appropriate Parliament will consult, but that does not mean that the views of individuals, MSPs, representatives of our communities and the Executive will not be put across. We will work to ensure that the legislation develops in the most effective manner.

Miss Goldie: I would like clarification about enforcement. Should I infer from what the minister says that he anticipates enforcement being more in the supply sector than in the regulation of people’s behaviour in communities?

Mr Kerr: Yes. We should ensure that we provide the police, environmental health officers and those who deal with difficult licensing and regulation issues with the appropriate powers through guidance and regulations. I strongly believe that we should try to reduce the impact of fireworks in our communities by strangling inappropriate supply lines. The issue relates to the window during which fireworks can be sold and the age of people to whom they can be sold. A box of fireworks should contain a variety of fireworks and not just noise-making fireworks that the community recognises as unacceptable. Black Cat and air bomb fireworks should be banned. There is a duality to the process. We need to provide police and other public sector enforcement workers with the powers to deal with issues when they arise, but the best way to try to deal with matters is through responsible retailing by those who supply fireworks. We are trying to achieve a balance in respect of the two different sides in the debate.

Mr Macintosh: Will the minister take an intervention?

Mr Kerr: I will take one more intervention.

Mr Macintosh: Does the minister agree with what Donald Gorrie and Robin Harper said about the legislation helping to create an environment in which people who use fireworks are more respectful of others? The legislation does not try overly to penalise people, but there is an attempt to create a culture in which people respect others in such enjoyable activities.

Mr Kerr: I absolutely agree that the Executive is trying to create that kind of culture and not just in the use of fireworks. We want to use the schools, the police, the fire service and other public servants to get the message across that, although the responsible use of fireworks is totally acceptable, we must crack down hard on the irresponsible use of fireworks in our communities.

I strongly believe that the Executive motion will result in comprehensive and effective regulations, which we have promised to consult on widely. We are about to make a real difference in our communities by agreeing to the motion. The bill will ensure that the views that we have regularly expressed on behalf of our communities are satisfied. People such as Tom Maginnis, who are much closer to the subject, have issued statements that are very positive about what the effect of the Tynan bill will be. I am supportive of the work of Tom Maginnis and of COSLA and, of course, I support all the public servants who have to deal with the problem, but the legislation will enable them to do that in a much more effective manner.

12:31

Meeting suspended until 14:30.

14:30

On resuming—

Question Time

SCOTTISH EXECUTIVE

Blood Supplies

1. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the Scottish Executive how it will address any shortage of blood supplies arising from an outbreak of West Nile virus. (S2O-269)

The Deputy Minister for Health and Community Care (Mr Tom McCabe): The Scottish National Blood Transfusion Service will temporarily defer donors who have visited the US or Canada for 28 days in order to minimise the risk of West Nile virus entering blood supplies. The SNBTS is actively campaigning to encourage donors to give blood before they go on holiday. Last week, as a result of those efforts, more than 1,700 new or returning donors gave blood.

John Farquhar Munro: I thank the minister for that reply and I am encouraged by it. I hope that he agrees with me about the importance of blood donation to this country. In light of the outbreak of West Nile virus that is affecting the United States, will the minister consider increasing public awareness of blood donation throughout Scotland?

Mr McCabe: I agree that this is an important matter. I thank him for raising the issue, given some of the history that is attached to blood donation. The SNBTS is very much aware of the need to raise awareness and is involved in a publicity campaign. I am sure that it will continue to monitor the situation and pursue that campaign actively.

Index of Deprivation

2. Brian Adam (Aberdeen North) (SNP): To ask the Scottish Executive what unit of population it will use in constructing the Scottish index of deprivation. (S2O-261)

The Minister for Communities (Ms Margaret Curran): The Executive has commissioned research to underpin the development of a long-term strategy for measuring deprivation in Scotland. That includes considering the size of units that might be used in an area-based index. We will make decisions once the research is complete.

Brian Adam: I thank the minister for that reply. I am glad that she has not yet made up her mind and I encourage her to use as small a unit of population as possible. I highlight the Auchmill ward in my constituency of Aberdeen North, which has half of the Great Northern social inclusion partnership within it. If the minister uses the ward arrangement, there will be little prospect of financial support within the City of Aberdeen. I would much rather that we continue to use the numeration districts that were used following the 1991 census.

Ms Curran: Any unit of definition brings its own challenges, as I am sure the member appreciates. We attempt to measure a number of factors in order to deliver an effective strategy to tackle deprivation and to ensure that we deal with concentrations of deprivation. We know that the current system is far from perfect because smaller areas are not properly picked up. There are streets that have severe deprivation in some prosperous areas, and we seek to target such areas of deprivation. The research is robust. We will give the matter great consideration to ensure that we address the issues that the member raises.

Dr Sylvia Jackson (Stirling) (Lab): As the minister knows, Stirling is polarised in that it has very well-off areas and very disadvantaged areas side by side, an example being Cornton and Bridge of Allan. If the research that is being done to develop the index of deprivation is not sufficient to identify smaller pockets of deprivation, will more work be undertaken to give us a more accurate analysis of where deprivation and disadvantage exist?

Ms Curran: The research that we are doing should give us some of the answers that we are looking for by establishing the proper unit size and levers that we need to target resources.

Sylvia Jackson knows that we believe in devolving flexibility in funding patterns, as people at the local level are sensitive to some of the issues. I know that that approach has benefited her constituency. It is a combination of ensuring that we get the unit size right and having flexibility in decision making. I assure members that we will do our best to ensure that the research is robust. It is never possible to get all the answers right in such a measurement because patterns shift, but we will make every effort to ensure that the polarity that Sylvia Jackson describes is addressed.

Disabled People (Care)

3. Ms Wendy Alexander (Paisley North) (Lab): To ask the Scottish Executive how it will empower people with disabilities to make their own choices about their care. (S2O-305)

The Deputy Minister for Health and Community Care (Mr Tom McCabe): Direct payments can help to empower disabled people by giving them more choice and control over the delivery of the community care and children's services that they need. On 1 June, we introduced provisions that will make direct payments more widely available to disabled people.

If I could indulge you for one more second, Presiding Officer, I understand that this is a landmark day for Ms Alexander. I will not be so ungracious as to say which landmark day it is, but I take this opportunity to wish her many happy returns. [*Applause.*]

Ms Alexander: Thank you. I am certainly well into the second half of my three score years and ten.

As the minister is well aware, disabled people have to draw on a variety of services at different stages, whether they be provided by Communities Scotland, in the case of housing, or by health boards or local authorities. In that respect, a variety of organisations have sprung up in Scotland in recent years. Organisations such as the Disabled Persons Housing Service provide an excellent service, and there is an example of such a service in my area of Renfrewshire. I am anxious that the minister give an indication that he would encourage health boards and other statutory agencies to support those voluntary organisations that assist people with disabilities, most notably organisations such as the Disabled Persons Housing Service.

Mr McCabe: I am more than happy to give that reassurance. The Executive fully recognises the contribution that such organisations make. I would strongly encourage health boards and local authorities to engage in discussions to ensure that they can make their contribution to the proper funding of those bodies. The organisation in Ms Alexander's constituency was previously funded by Communities Scotland, which I know fully recognises the work that the organisation has done. I know that Communities Scotland is prepared to work with its staff to identify longer-term sources of income.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I join the minister in wishing Wendy Alexander many happy returns—although she is some years away from suffering the particular disability that is known as deafness. Could the minister tell me where we are with the decision made in the partnership agreement to proceed with the issuing of digital hearing aids throughout Scotland?

Mr McCabe: As Jamie Stone knows, a report on audiology services in Scotland was produced earlier this year. That whole service is being

reviewed at the moment. We are aware of the significant commitments made in the partnership agreement, and the measures to which Jamie Stone refers are being examined in detail with a view to implementing them as soon as possible.

Mrs Nanette Milne (North East Scotland) (Con): I understand that just four out of the 26 board members of "The same as you?" implementation group have a disability. Will the Scottish Executive consider increasing that level of representation?

Mr McCabe: It is important that people with specific experience of disability are represented on such groups. It is also important to have a wide breadth of experience from all sectors of society, so that people can bring different talents to ensure that services are delivered in the best possible way, that disabled people have proper access to those services and that their concerns can be expressed properly.

Public Transport (Lanarkshire)

4. Elaine Smith (Coatbridge and Chryston) (Lab): To ask the Scottish Executive whether any action will be taken to improve public transport links between north and south Lanarkshire. (S2O-262)

The Minister for Transport (Nicol Stephen): The Scottish Ministers are always anxious to encourage improved public transport links, although, in this instance, the Strathclyde Passenger Transport Authority, along with North Lanarkshire Council and South Lanarkshire Council, would have the lead responsibility.

Elaine Smith: Does the minister agree that the transport links within those areas of Lanarkshire are in particular need of improvement? Many of my constituents are faced with using at least two different buses—perhaps more—for a journey taking upwards of an hour in order to gain access to their nearest maternity and paediatric facilities. Does the minister agree that, if those facilities are to be of the utmost benefit to the people whom they serve, it is crucial that transport links to and from them improve?

Nicol Stephen: I agree that there is significant scope for improving public transport in Scotland. That is one of the reasons why the Executive is shifting its transport expenditure towards public transport and why, over the coming years, we will spend 70 per cent of the funds available on public transport.

As far as more immediate action that could assist Elaine Smith is concerned, I will be meeting representatives of Strathclyde Passenger Transport on Monday to discuss a range of public transport issues, and I am happy to take up her constituency concern with the chairman.

Bus Services (Scottish Borders)

5. Christine Grahame (South of Scotland) (SNP): To ask the Scottish Executive what concerns it has about withdrawal of bus services in the Scottish Borders. (S2O-273)

The Minister for Transport (Nicol Stephen): Although the provision of local bus services is a matter for individual bus operators and the local council or local transport authority, the Scottish Executive is clearly concerned at the reduction of any public transport provision.

Christine Grahame: I note what the minister says, but in a recent parliamentary answer he stated:

"The Executive provides substantial financial support for the operation of subsidised local bus services through the local government Grant Aided Expenditure mechanism ... There are currently no plans to increase this support."—*[Official Report, Written Answers, 16 June 2003; p 177.]*

Who is to blame for the crisis of essential Borders bus services being cut right, left and centre—Scottish Borders Council or the Liberal Democrat Minister for Transport?

Nicol Stephen: The Scottish Executive is increasing funding to local authorities and the funds available are rising right across Scotland. In addition, the Executive has provided £19.7 million in new investment since 1998 through the rural public passenger transport fund. Wide powers are available to local authorities and I know that Scottish Borders Council is considering ways of mitigating the worrying reductions in services. I hope that it will seize its powers and take action.

Jeremy Purvis (Tweeddale, Etrick and Lauderdale) (LD): Is the minister aware that local Peeblesshire Liberal Democrat councillors, together with independents and me, are working hard to seek the retention of the town service in Peebles? That approach is more constructive than that of the member who asked the question—an approach that was described by a former SNP councillor in a local newspaper last week as "bitching and whining".

Nicol Stephen: I was unaware of that comment and am unwilling to comment on it. However, I have read in the local press some of Christine Grahame's generous comments about my Liberal Democrat colleagues and me.

As I said, local councils have powers available to them. As I understand it, a policy decision of Scottish Borders Council was not to support town services. That was not a Scottish Executive decision and it is one that Scottish Borders Council can change.

Incineration Facilities

6. Mr Richard Baker (North East Scotland) (Lab): To ask the Scottish Executive whether it supports the development of new incineration facilities. (S2O-281)

The Deputy Minister for Environment and Rural Development (Allan Wilson): The national waste plan recognises that producing energy from waste has a role to play in an integrated approach to waste management. However, development of new incineration facilities will be supported only where this is the best practicable environmental option identified in the relevant area waste plan. That means that recycling and composting will be maximised and only residual waste will be used for energy recovery.

Mr Baker: Is the minister aware of the widespread concern in Aberdeen over the plans to build an incinerator at a site in the Altens area of the city? Aberdeen City Council is still considering the planning application for that site. Thousands of people in the communities around Altens object to the fact that the proposed incinerator is of such a size that it will need to process waste from outside the city in order to be economically viable. They are also concerned about the substances that will be released from the incinerator into the environment around their homes. In light of those objections, does the minister agree that the proposed incinerator should not be built?

Allan Wilson: The member will appreciate that, as a planning application for the incinerator is currently awaiting a decision by Aberdeen City Council, I am unable to comment on the merits of the application. However, that application, and any other similar proposal, would have to be in line with the best environmental option in the local area waste plan.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Will the minister join me in welcoming converts on this issue—given that it was the former administration in Aberdeen City Council that promoted the incineration concept? Will he also join me in welcoming the commitment that has been given by the new administration in Aberdeen to seek other methods of waste disposal?

Allan Wilson: I will not be drawn on the specific application; I think that the member would agree that that is wise. However, high levels of recycling, reuse and composting are not incompatible with the recovery of energy from waste. So, in that wide context, I agree with Mr Rumbles.

Richard Lochhead (North East Scotland) (SNP): Does the minister think that incineration is the most efficient means of waste disposal?

Allan Wilson: For the third time, I repeat that incineration is one of many options for waste disposal. We continue to believe that reuse, recycling and composting are the best environmental options, but that belief is not incompatible with consideration of recovery of energy from waste, which is better than landfill.

Mr Mark Ruskell (Mid Scotland and Fife) (Green): The minister will be aware that there is no target in the national waste plan for the reduction of the amount of waste that is produced in the first place and that, by the Executive's own figures, the waste that is generated in Scotland is projected to rise by 30 per cent before 2020. Does the Executive intend to tackle the ever-increasing amount of waste that is produced? If so, will the minister consider introducing at least some sort of target and strategy for reducing such waste?

Allan Wilson: We have targets for increasing recycling, reuse and composting and, as a consequence, reducing our reliance on landfill, so it is untrue to suggest that there are no targets. However, we will certainly consider all the best practical environmental options. As I told the member's colleague last week, we believe in local solutions to local problems. Such solutions are determined by the area waste plan for the area in question.

Alex Johnstone (North East Scotland) (Con): Does the Scottish Executive treat incinerators differently where they are described as thermal energy reclamation units? Does the Executive have any plans to monitor the output from those plants in response to local concerns?

Allan Wilson: I am aware of the European Court of Justice's decision on the matter. In that context, I repeat that our policy is that waste prevention, minimisation, recycling and composting should be maximised, but to meet our landfill reduction targets, we must consider the use of energy from waste recovery, which is a better environmental option than landfill.

Sport

7. Dennis Canavan (Falkirk West): To ask the Scottish Executive what measures it is taking to improve opportunities for sporting participation and achievement. (S2O-265)

The Minister for Education and Young People (Peter Peacock): We are supporting a range of initiatives that contribute to delivering the agenda that is fully set out in sport 21, which is the national strategy for sport.

Dennis Canavan: Will the Executive encourage sport's governing bodies to ensure that sporting achievement is rewarded with the opportunity to participate at a higher level? Would it not be a travesty of justice if the Scottish Football

Association failed to ensure that Falkirk Football Club's achievement in winning the division 1 championship is rewarded with the opportunity to participate in the Scottish Premier League?

Peter Peacock: As Frank McAveety is not here today, I am a late substitute who has just been drawn off the bench and I think that that question is rather unsporting. However, I take my hat off to Dennis Canavan. His consistency and persistence in supporting his local football club is highly commendable. However, I am sure that he will appreciate that it would entirely inappropriate and improper for me to comment on the matter today, given that an appeal is on-going, the second half of which will be heard later tonight.

Sexual Health Strategy

8. Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the Scottish Executive when its sexual health strategy will be implemented. (S2O-276)

The Minister for Health and Community Care (Malcolm Chisholm): An expert group has been taking forward the preparation of a national sexual health strategy. A report for public consultation will be published by autumn 2003.

Mike Rumbles: Does the minister agree that there has been a worrying rise in the number of sexually transmitted diseases, with chlamydia rising by 100 per cent, gonorrhoea rising by 52 per cent and new HIV cases rising by 60 per cent in the past four years? Will he describe how the sexual health strategy will tackle prevention as well as cure?

Malcolm Chisholm: There were three strands to the remit that I gave the group that is considering the matter. One strand was to enhance the provision of sexual health services. The other strands were to reduce unintended pregnancies and sexually transmitted infections and—crucially—to promote a broad understanding of sexual health and sexual relationships that encompasses emotions, attitudes and social context. We want to take a much broader view of the matter than has been taken in the past and I look forward to receiving the recommendations so that we can carry on with the consultation.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): Will the minister join me in welcoming the most recent statistics, which show a reduction in the number of teenage pregnancies in Scotland? However, does he agree that a great deal more still needs to be done in that area? Will he therefore give an assurance that the issue will be actively and fully addressed in the forthcoming sexual health strategy and thereafter in its implementation?

Malcolm Chisholm: I can certainly give Susan Deacon that assurance. I am sure that we all want to pay tribute to her work in the area. We are building on the foundations that she created. For example, the healthy respect demonstration project, which is a testing ground for issues, has been feeding into the work of the strategy. Earlier this year, we also set up a sexual health and well-being learning network, which is disseminating information about what works and examples of good practice.

Carolyn Leckie (Central Scotland) (SSP): Given the inequalities in access to termination services that have been evidenced in areas such as the Greater Glasgow NHS Board area, will the strategy include initiatives to eradicate such inequalities?

Malcolm Chisholm: The provision of sexual health services is one of the key strands of the strategy, so that issue is part of the strategy that we must keep in mind.

Greater Glasgow NHS Board (Funding)

9. Robert Brown (Glasgow) (LD): To ask the Scottish Executive what discussions it has had with Greater Glasgow NHS Board regarding any shortfall in funding and budget cuts. (S2O-303)

The Minister for Health and Community Care (Malcolm Chisholm): The Executive has regular discussions with all NHS boards on a wide range of issues, including financial issues. The most recent discussion with Greater Glasgow NHS Board took place at the annual accountability review on Wednesday 25 June.

Robert Brown: The minister will be aware of the reported funding reduction in the budget for Greater Glasgow NHS Board. The board has restricted the supply of beta interferon for new patients and attributes its action to that shortfall. Can the minister give an assurance that both newly diagnosed and existing sufferers of multiple sclerosis who live in the health board's area and who require the drug will get access to it in line with the Scottish Executive's policies?

Malcolm Chisholm: I remind members that Greater Glasgow NHS Board's uplift next year will be 7.4 per cent, which is high by any historical standards. However, Robert Brown is right to say that a small adjustment had to be made because of a fall in population.

There is a risk-sharing scheme for beta interferon and the Scottish Executive has issued guidelines on the drug. Clearly, Greater Glasgow NHS Board must implement those guidelines. The issue was raised with the board, which assured us that patients will continue to be assessed and prescribed beta interferon where that is clinically appropriate.

Ms Sandra White (Glasgow) (SNP): I congratulate the minister on using his muscle to order Greater Glasgow NHS Board to drop its ban on beta interferon for MS sufferers. When will action be taken by the board to reinstate such drug treatment and will it involve all 240 MS sufferers in Glasgow? At the moment, only 71 patients are involved. Can the minister give an assurance that that will happen as soon as possible?

Malcolm Chisholm: The board has already given an assurance that patients will continue to be assessed. The drug is subject to the clinical guidelines. Not all patients with MS will benefit from beta interferon, so assessment must take place. However, those who will benefit will be prescribed the drug. That is precisely what will happen in Glasgow as elsewhere.

Childhood Obesity

10. Sarah Boyack (Edinburgh Central) (Lab): To ask the Scottish Executive what action it is taking to tackle childhood obesity. (S2O-299)

The Deputy Minister for Health and Community Care (Mr Tom McCabe): Scotland's health improvement policy emphasises the need for concerted action on obesity. The two key risk factors are poor diet and lack of physical activity. "Improving Health in Scotland: The Challenge" has a major focus on improving lifestyles, including healthy eating and physical activity. A key setting for this work is both in the early years and during the teenage transition.

Sarah Boyack: Does the minister agree that reduced physical activity is one of the most significant factors in weight gain for children and adolescents, which will lead to major health problems in adulthood? Over the past 20 years, the number of children travelling to school by car, as opposed to walking or cycling, has doubled.

Will the minister and the Executive agree to work across departments on the issue? Does the minister recognise that schemes such as the safer routes to school scheme not only tackle congestion but work to improve the health of young people across Scotland?

Mr McCabe: I am happy to give that assurance and I acknowledge Sarah Boyack's work in previous years on safer routes to school. That project continues and is being actively pursued. The project makes a major contribution to children's physical activity. The encouragement that is given to the project remains and will continue into the future.

Alcohol-related Violence

11. Donald Gorrie (Central Scotland) (LD): To ask the Scottish Executive what action it will take to tackle alcohol-related violence. (S2O-280)

The Minister for Justice (Cathy Jamieson): The Scottish Executive will shortly publish the report of the Nicholson committee's review of liquor licensing law. Earlier today, the First Minister and the Minister for Communities announced proposals for inclusion in the antisocial behaviour bill, which include action to tackle problems in licensed premises.

Donald Gorrie: Those measures are welcome. Will the minister consider encouraging the police and procurators fiscal to make more use of existing laws to tackle the problem, such as the law against selling alcohol to someone who is already drunk, under which no one is ever prosecuted?

Cathy Jamieson: I am acutely aware of the issue, which I know the member has raised a number of times. We would want to consider his suggestion when we look at other proposals. I assure him that we will continue to examine such issues to see how best we can make progress. It is clear that we also need to work on a culture change to ensure that educational approaches make a difference.

Johann Lamont (Glasgow Pollok) (Lab): I welcome the minister's announcement that the Nicholson committee will report soon and I urge her to act speedily on its recommendations.

The minister will be aware of the impact that poorly run off-licences have on communities, given that they are both a cause of, and a focus for, disorder. I urge the minister to consider legislation to tackle the problem of a licensee being able to continue to trade—even though a licensing board has withdrawn their licence because of problems that their premises have created—simply because they have lodged an appeal, no matter how frivolous that appeal is. That situation causes immense frustration and continuing difficulties for local people.

Cathy Jamieson: I am highly aware of some of the difficulties in communities. I draw members' attention to the proposals that are contained in the consultation paper that was announced today. As part of that consultation, we are seeking people's views on whether to give police the same right of entry to off-licences and registered clubs that sell alcohol that they have in relation to other licensed premises. That is an important part of a range of options that will ensure that we take quick and effective action in those cases. I am also aware that many communities do not like the fact that they feel that they have no say and no power to object in such circumstances.

Seroxat

12. Mr Adam Ingram (South of Scotland)

(SNP): To ask the Scottish Executive whether Seroxat will be withdrawn from use in the treatment of depression. (S2O-259)

The Minister for Health and Community Care (Malcolm Chisholm): Following new data, the United Kingdom Committee on Safety of Medicines has advised that Seroxat should not be used in children and adolescents under 18 with depressive illness because the balance of risks and benefits is negative. The committee's current advice is that Seroxat is an effective medicine for the treatment of adults with depressive illness and anxiety disorders and that the benefits of treatment outweigh the risks. An expert working group of the Committee on Safety of Medicines will examine urgently what implications, if any, the new findings have for the use of Seroxat in adults.

Mr Ingram: Does the minister agree that the off-licence prescribing of antidepressants and other adult medicines to children is of grave concern? Will he give us an assurance that children who are no longer prescribed Seroxat and other medicines will be offered alternative methods of treatment?

Malcolm Chisholm: I certainly agree with that point—alternatives must be available. The major piece of work on mental health services for young people will take that on board. In relation to Adam Ingram's first point, the guidance from the Committee on Safety of Medicines is clear on people who are under 18 and it will be followed.

Means Testing

13. John Swinburne (Central Scotland)

(SSCUP): To ask the Scottish Executive whether it has any plans to phase out and eliminate the use of means testing. (S2O-271)

The Minister for Health and Community Care (Malcolm Chisholm): The Executive decides whether means testing is appropriate on a case-by-case basis.

John Swinburne: In 2001, in reply to a question to the Secretary of State for Work and Pensions, Ian McCartney stated:

"The link between the intrusive and complex nature of means testing and non take-up of the minimum income guarantee by some pensioners has been established."—*[Official Report, House of Commons, 25 June 2001; Vol 370, c 34W.]*

Because new Labour has clung to that obscene method of squeezing money from the elderly—

The Presiding Officer (Mr George Reid): You must put a question.

John Swinburne: —many of my generation are suffering in a needless cycle of poverty.

The Presiding Officer: You must put a question, Mr Swinburne.

John Swinburne: Does the minister agree that means testing is the most unjust tool in the tax system, as it is used to withhold meagre benefits from the elderly?

Malcolm Chisholm: The whole of that question deals with matters that are for the Westminster Parliament. We need to have a balance. We cannot deliver all benefits and services on the universal principle or through means testing; neither of those is a credible or realistic option. The health service, for which I am responsible, is the best example of a universal service and the Scottish Parliament can take pride in the fact that it extended that principle in its first session to deal with personal care for the elderly. That was a major extension of universal benefits, but it does not follow that because we decided that that was appropriate, every service and benefit should be universal. It is simply not realistic to run a Government in that way.

Renewable Energy (Highlands and Islands)

14. Mary Scanlon (Highlands and Islands)

(Con): To ask the Scottish Executive what measures are being taken to strengthen the national grid to accommodate the expansion of renewable energy opportunities in the Highlands and Islands. (S2O-279)

The Deputy Minister for Enterprise and Lifelong Learning (Lewis Macdonald): Scottish and Southern Energy plc and Scottish Power have recently announced plans for considerable upgrading of the transmission network in their areas. The Scottish Executive will continue to work with the UK Government, the regulator and the industry to ensure that the grid is strengthened and that Scotland's renewable energy potential is realised.

Mary Scanlon: The minister should meet Highland Council's planning office more regularly. At last week's Highland Council planning meeting, it was claimed that consumers will have to pay more to finance a massive upgrade of the national grid. It was also claimed that the proposed grid upgrade will require pylons to be twice the size they are now, with heavier power cables criss-crossing Highland moors and mountains. Does the minister endorse the concerns of Highland Council? Will he meet Highland Council, those in the islands and the Department of Trade and Industry to ensure a more co-ordinated approach?

Lewis Macdonald: We work with the DTI and others precisely to ensure a co-ordinated approach. Along with our partners, we take part in the DTI transmission issues working group, which is addressing how to put in place the transmission

network that will be necessary to carry the renewable energy benefits that the north of Scotland in particular can produce. Our policy clearly supports the production of that renewable energy. We are clear that we will support the measures necessary to make it possible.

Along with our partners in the UK we are actively pursuing a proper system of trading in electricity throughout Great Britain, including with consumers in England, Wales and Scotland, so that we can spread the costs and ensure that the maximum benefits are achieved at realistic cost. We stand firmly by our objective of increasing and maximising the production of energy from renewable sources.

Maureen Macmillan (Highlands and Islands) (Lab): Does the minister agree that, in spite of the caveats voiced by Highland Council, the majority of people in the Highlands are looking forward to the strengthening of the grid and the extra prosperity that will go to the Highlands with the development of renewables?

Lewis Macdonald: That is right. Strengthening the grid will not be done for nothing, but the companies that are responsible will do it through investment. They will invest money because they will see a return for themselves. There will be economic benefits for the areas that are served through their ability to carry larger amounts of electricity to and from the national grid.

Robin Harper (Lothians) (Green): The minister has referred to the differences in the regimes for the delivery of renewables between Scotland and England and Wales. He will also be aware that the Robin rigg wind farm will take up all the spare capacity in the south of Scotland, creating yet another problem for us. When will the minister be able to assure the renewables industry that all those problems are going to be sorted out with the DTI?

Lewis Macdonald: In response to a written question at Westminster a few weeks ago, Brian Wilson made it clear that the transmission issues working group on which we serve had come to a view on the grid: over a 10-year period, it will be good value for money for the companies that are investing. Ofgem has given the companies the clearance that they need to proceed with planning the upgrade of the grid so that it can carry that additional power. Scottish and Southern Energy plc in the Highlands and Islands and Scottish Power in south-west Scotland have recently announced plans to make that happen and that is the right way forward.

Bruce Crawford (Mid Scotland and Fife) (SNP): Does the minister acknowledge that all the problems of trying to get the grid to work in the Highlands are creating developer hot spots down

the east coast, and that the planning regime is not strong enough to deal with those issues? Does he agree that we require a new planning framework for renewable energy in Scotland, particularly a framework that will deliver a strategy for Scotland?

Lewis Macdonald: No, I do not accept that, because the renewable energy planning guidelines were revised as recently as 2000. That revised guidance to local authorities on how to consider planning applications is effective, and that is why, not just on the east coast but in the Highlands and throughout Scotland, successful applications are being made that are adding to our renewable generation potential. We think that that is the right way forward, and that the strategy is in place to achieve the gains that we want to make.

Rail Services (Fife)

15. Iain Smith (North East Fife) (LD): To ask the Scottish Executive what opportunities there will be to increase rail services to and from Fife under the next rail franchise. (S2O-263)

The Minister for Transport (Nicol Stephen): The new franchise will contain a mechanism to enable new services to be introduced into the franchise throughout its life. In addition, new rolling stock, in conjunction with platform lengthening, will enhance railway services in Fife over the coming months.

Iain Smith: The minister will be aware of the capacity problems that affect the ability to deliver new rail services in Fife, in particular the problems at Waverley, and the need to redevelop Waverley station. Can the minister give me an assurance that he is doing all that he can to ensure that that redevelopment goes ahead? Also, will he join me on a commuter service to Fife to see for himself the extent of the overcrowding problems on the rails to and from Fife?

Nicol Stephen: On the latter question, I experience some of those problems when I use the train to the north-east, but I would be pleased during the summer period to take up Iain Smith's generous offer.

On other on-going initiatives, I can assure Iain Smith that, in partnership with others, we are working hard to come forward with proposals in relation to Waverley station. I expect the proposals to become public over the summer months.

We are working to deliver longer platforms, new trains and increased capacity. The improvements that I announced in the Parliament, for example the new link on the Stirling to Alloa to Kincardine line, afford the opportunity for improved services into Fife. We are determined to tackle overcrowding, improve reliability and improve the overall quality of services into Fife.

Mr Kenny MacAskill (Lothians) (SNP): While I welcome the minister's comments, I express surprise, given his answer to a written question last week. When the minister was asked about the information that he had on the capacity and usage of lines between Edinburgh and Aberdeen, he said that the information was not held centrally. When he was asked what direction and guidance the Executive had given to the Strategic Rail Authority regarding capacity and usage on that line, he said that it was not a matter for the Executive, but for the Strategic Rail Authority. How can the minister make bland promises when he does not know the existing situation on the line, and he has no control over future events?

Nicol Stephen: Kenny MacAskill understands how the rail system in the UK works, but some of his contributions in the chamber tend to suggest otherwise. The system is simple: the information that he is talking about is held, as it should be, by the Strategic Rail Authority and Network Rail. The information that relates to Scotland is shared openly with the Scottish Executive, and we plan things together, in partnership.

Marilyn Livingstone (Kirkcaldy) (Lab): As a regular Fife commuter, I look forward to increased capacity on the line. However, if we are going to encourage people from Fife to travel to Edinburgh by train, what plans are there to increase the number of car parking spaces, especially in my constituency of Kirkcaldy, where parking is a problem?

Nicol Stephen: We have invested significantly in park-and-ride facilities across Scotland. As Marilyn Livingstone will know, one of the most successful park-and-ride facilities is the one that is developing, and indeed expanding, in Fife. If there are opportunities to do more, we will want to invest more. That is part of our commitment to investing more in public transport.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): While I do not wish to join the dynamic duo of Messrs Stephen and Smith on their journey into Fife, I assure them that these days it is definitely a journey into hell. The overcrowding on the trains is something to behold. When the minister is considering rail services into Fife, will he also add his support to the campaign to restore the rail link between Leuchars junction and St Andrews, which has been campaigned for for many years?

Nicol Stephen: The proper way to develop local projects such as that is, in the first instance, through the local authority. More schemes to develop the rail network in Scotland are being developed now by the Executive, in conjunction with local partnerships, than have been developed in recent decades.

We should remember that one of the reasons that we have overcrowding is growth in the passenger usage of our rail services. We want to see further growth. When it occurs, we will take steps to improve the rolling stock and to increase capacity. That is the commitment of the Executive.

First Minister's Question Time

15:10

Prime Minister (Meetings)

1. Mr John Swinney (North Tayside) (SNP):

To ask the First Minister when he next plans to meet the Prime Minister and what issues he intends to raise. (S2F-121)

The First Minister (Mr Jack McConnell): When I next meet the Prime Minister, I will be delighted to inform him that in the first eight weeks of the second session of this young Parliament we have published, as promised, proposals for court reform and new support for witnesses and that today we have announced proposals for tackling antisocial behaviour. I will also inform him that we have reviewed our policy on school exclusions in order to support head teachers and that we have taken forward road and rail transport plans. I will further tell him that today we contributed to the reform of the European common agricultural policy and that tomorrow we will publish our plans for the reform of the national health service. I think that the Prime Minister will be very impressed.

Mr Swinney: At least the pace of activity has increased over the past eight weeks compared to the previous four years. However, my question is about one of the other proposals that was made in those four years but, unfortunately, has not come to a conclusion. What is the current position on payment of compensation to those people who, as a result of treatment on the national health service, contracted hepatitis C?

The First Minister: The current position is that we are discussing the matter with our colleagues in Whitehall. In the past fortnight, the Minister for Health and Community Care and I have discussed the matter with the new Secretary of State for Scotland and, over the next few weeks, the Minister for Health and Community Care intends to discuss it with the new Secretary for State for Health in the United Kingdom Cabinet.

Mr Swinney: I am interested in the First Minister's answer, because it is similar to the ones that we have had before about the continuing discussions with the UK Government. In January, the Minister for Health and Community Care said that he wanted to pay compensation. At that time, the only obstacle seemed to be Westminster. Since then, we have been told that progress has been made and that meetings, top-level discussions and negotiations have taken place.

Yesterday, the Health Committee heard in a letter from the Minister for Health and Community Care that, despite all those assurances, the UK

Government has not yet responded to his key concerns and that no agreement has been reached on the issue. For the sake of clarity, will the First Minister agree to publish the legal advice, correspondence and list of meetings at ministerial and official level to which the Minister for Health and Community Care referred in his letter? That would allow the victims to see with their own eyes that the Scottish Executive is doing all that it can to secure justice for the victims of this tragedy.

The First Minister: In response to the concerns that were expressed in the Parliament, the Scottish ministers expressed the view that they wished to provide assistance to those victims. However, we want to do that in the right and proper manner. That is why we have taken the right time to do it.

Mr Swinney knows that we do not publish the level of detail that he has asked for. However, we rightly take up issues of concern. It is right and proper that we seek to reach an appropriate conclusion that will stand any legal tests that could follow. We will take our time. We will do things properly. At the end of the day, I hope that we will get the right result for those who have been affected.

Mr Swinney: The First Minister says that he wants to act as quickly as possible, but that is the language that we have been getting from the Government for the past six to 10 months on the subject. The issue is not new; it has been going on for the best part of 13 or 14 years. Let me quote from the Minister for Health and Community Care's letter to the Health Committee. The minister said that, after 10 months of talks,

"Agreement has not yet been reached on the issue of devolved competence, or on social security clawback and we have not set any fixed deadline."

We have been here before on similar issues. When Westminster would not agree to the Scottish Executive's position on free personal care for the elderly, the Executive threw in the towel. I ask the First Minister for an absolute assurance that the victims of hepatitis C will not see the Government abandon them. Will the victims get the compensation that they justly deserve?

The First Minister: We hope that they will get the appropriate payments that can be afforded in the budgets that are available and we hope to secure that in a manner that is not open to challenge in Scotland or elsewhere. It is right and proper that we clarify the legal position. We also need to clarify that those who might benefit from the payments do not lose out as a result of money being clawed back. That is entirely responsible government. We will continue to pursue that course until a proper conclusion is reached. It would be entirely wrong for a responsible Government to raise people's expectations

beyond that level until we can be certain not only that the payments will be made, but that they will be meaningful.

Cabinet (Meetings)

2. David McLetchie (Edinburgh Pentlands) (Con): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-124)

The First Minister (Mr Jack McConnell): The next Cabinet will, as always, discuss matters of importance. Yesterday, the Cabinet paid tribute to Sir Muir Russell after his 33 years' service to the civil service and his period of service as permanent secretary during the early years of devolution. We wished him well, as I am sure the Parliament will want to do, too.

David McLetchie: I am happy to echo the First Minister's words on Sir Muir Russell, with whom I look forward to engaging in dialogue in his new post and with his new responsibilities at the University of Glasgow.

I wonder whether the First Minister and some, at least, members of his Cabinet read the Prime Minister's recent speech to the Fabian Society on public service reform. The Prime Minister said:

"Those who defend the status quo on public services defend a model that is one of entrenched inequality."

That echoed what the former Secretary of State for Health, Mr Milburn, said last February:

"In 50 years, health inequalities have widened, not narrowed. Too often, even today, the poorest services tend to be in the poorest communities."

Does the First Minister accept that that analysis is just as relevant to the health service in Scotland and that the failure to provide high standards for some of the most disadvantaged of our citizens is one of the most pressing arguments for reform?

The First Minister: I am grateful to Mr McLetchie for recognising that any such development occurred over a period when, I believe, the Conservative party was in government for more years than any other party was. However, it is critical that we recognise that, particularly in the 21st century, not only the health service but other public services need to reform and to adapt to the demands of current and future generations. That is why, in recent months, we have published proposals for reform in education, in our courts and in our justice system and why we will publish tomorrow our proposals for reform in the national health service in Scotland. I hope that those proposals will meet with support in the Parliament.

David McLetchie: I suggest that the First Minister's so-called reforms, which are to be published tomorrow in an NHS reform bill, are simply tinkering around the edges of the problem

and will fail to address the real design faults in the health service. As the First Minister might acknowledge, some of the fundamental design flaws in the service result from excessive centralisation, political interference, bureaucracy and a lack of choice for patients. He might also acknowledge that those problems are exactly the same north and south of the border and that, consequently, the system is failing patients whether they be in Lancashire or Lanarkshire.

Last week at question time, the First Minister told me that

"patients in Scotland for whom our guarantee on waiting times is not met locally will have the right to access their health care elsewhere".—[*Official Report*, 19 June 2003; c 977.]

In other words, the system will have failed the patient before anything is done. Does the First Minister agree that it would be better to avoid such failures in the first place and that that means empowering patients and giving them choice from day one, an approach that will be absent from his NHS reform bill when it is published tomorrow?

The First Minister: No, I do not agree with that at all. The reforms that we will publish tomorrow will include significant new opportunities for the involvement of patients, not only individually, but collectively, in the provision of services in their area.

Mr McLetchie should reflect on the fact that it is likely—I do not have the figures to hand and suspect that they are not published, but this is my absolute belief—that a more significant number of NHS patients travel north of the border from England for treatment than patients from Scotland travel in the other direction. We would all be surprised if that were not the case. That is a tribute to the Scottish health service, to the increased capacity in the Scottish health service and to the delivery by doctors, nurses and many other professionals of a quality health service here in Scotland.

Reforms are required, but those reforms should build on our comprehensive service and should not move us to the kind of health service that the Conservative party has taken to putting forward over recent years—a service that would be much more exclusive in its provision.

Scottish Executive (Honesty and Integrity)

3. Tommy Sheridan (Glasgow) (SSP): To ask the First Minister how the Scottish Executive enforces honesty and integrity amongst its members. (S2F-131)

The First Minister (Mr Jack McConnell): The standards expected of Scottish Executive ministers are contained in the Scottish ministerial code.

Tommy Sheridan: On 13 March, the First Minister stood in the chamber and argued for us to support Blair and Bush over Iraq. Does he now accept that he was wrong to support the Prime Minister and that the Prime Minister was guilty of deceiving Westminster, the First Minister and the people of Scotland?

The First Minister: No, I do not. I can only assume from Mr Sheridan's comments that he would prefer that Saddam Hussein were still in power in Iraq. He is wrong to take that view.

Tommy Sheridan: On 13 March, the First Minister said that

"action should be authorised by the United Nations"

and that the Iraqi regime should

"give up its weapons of mass destruction."—[*Official Report*, 13 March 2003; c 19434-35.]

Given that Blair and Bush ordered the invasion of Iraq without authorisation from the United Nations and that no weapons of mass destruction have been found, does he now admit and apologise to the people of Scotland that he misled them in supporting the illegal invasion of Iraq?

The First Minister: I and many others are on record at the time regretting the fact that there was no United Nations decision to act, but that does not make the success of the action any less good for the people of Iraq. They needed a change of regime; they now have that change of regime and they should be supported in rebuilding their country.

Electronic Tagging (Children)

4. Pauline McNeill (Glasgow Kelvin) (Lab): To ask the First Minister whether he intends to restrict electronic tagging of children to those children who might otherwise be placed in secure accommodation. (S2F-136)

The First Minister (Mr Jack McConnell): As members are aware, we are committed to combating antisocial behaviour in our communities, particularly by a minority of young persistent offenders. The consultation document published earlier today includes possible options on tagging young people who might otherwise be placed in secure accommodation.

Pauline McNeill: Does the First Minister agree that electronic tagging has a range of possibilities? It could be a way of preventing those young people who might otherwise be in secure accommodation from being away from their communities. Furthermore, electronic tagging could provide protection for some victims of crime, as offenders can be monitored electronically. However, will the First Minister assure me that he will not take it for granted that, because tagging

has been a successful measure for adults, it will necessarily be successful for young people? Will he also assure me that the proposal will be properly monitored and assessed? I am sure that he will agree that, whatever Parliament does, tagging can be only part of an overall solution.

The First Minister: Yes, I agree with Pauline McNeill's comments. We should not close our minds to the possible solutions in tackling antisocial behaviour. Today's consultation paper contains a number of open-ended questions to which I hope people will take the chance to respond. We want to pursue a number of immediate actions, not least the limited use of electronic tagging that was proposed in the partnership agreement and again today in the consultation document, although it is important to ensure that there is a range of other services and opportunities for young people.

Antisocial behaviour is carried out by a minority of young people in Scotland; the vast majority of young people deserve our support, our encouragement and the creation of opportunities to allow them to fulfil their lives. One of those opportunities is the chance to use their streets, parks and leisure facilities in peace and safety. In tackling antisocial behaviour, we will be enabling them to do just that.

Nicola Sturgeon (Glasgow) (SNP): I am encouraged by the First Minister's answer. Does he agree that, although electronic tagging has a role to play in tackling youth offending, it is not the only solution? Given the current shortage of secure unit accommodation and social workers, will the First Minister give an assurance that electronic tagging will not be used as a cheap alternative to detention, where that is more appropriate, or to the kind of intensive support measures that have been applied to many young offenders, which not only control their offending behaviour, but tackle the underlying causes of it?

The First Minister: I am absolutely determined that the various sanctions, penalties and other measures that we propose today should be used only in appropriate circumstances. I am pleased that the SNP has in some ways changed its policy on the issue and now takes a more comprehensive approach—in the past, it focused solely on secure accommodation.

It is important that we recognise that we are dealing with a deep-rooted problem that requires a variety of actions to tackle it. My personal view is that it is not appropriate to give antisocial behaviour orders to, or electronically tag, eight-year-olds in Scotland, but we must recognise that some eight, nine and 10-year-old children in Scotland—and even some six and seven-year-olds—behave appallingly in their communities. This morning we heard of the stoning of building

workers on a site and, on Monday, I heard that a pregnant woman was stoned by eight-year-olds in my constituency. Antisocial behaviour orders might not be appropriate for such children, but their parents must be held to account and appropriate action must be taken. That is why we must and will produce a comprehensive set of measures.

Mary Scanlon (Highlands and Islands) (Con): When will the promised additional 29 secure accommodation places be available? Does the First Minister agree that, if a children's panel decides that a child should be sent to a secure accommodation unit, that is what should be done and we should not rely on the next-best option?

The First Minister: I hope that that would always be the case. The changes in secure accommodation will take place as quickly as possible. Those changes include not only the additional places, but the reconfiguration of secure accommodation to ensure that it is appropriate and in the right locations and that it provides the right services for young men and women and boys and girls.

Care Homes

5. Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): To ask the First Minister what comparison has been made in terms of value for money between offering financial support to the Church of Scotland to keep care homes open and finding alternative accommodation for residents affected by the closure of Church of Scotland homes. (S2F-130)

The First Minister (Mr Jack McConnell): We do not want to see the unnecessary closure of good-quality care homes. I hope that negotiations between local authorities, which have a duty to provide best value, and the Church of Scotland will ensure that older people's care needs continue to be met in appropriate settings.

Mr Stone: Does the First Minister agree that it is most unfortunate that the Church of Scotland, which is the one organisation that did not go in for brinkmanship by threatening not to take new residents, should be hit in such a way? The two Church of Scotland homes in my constituency, Achvarasdale House and Oversteps Eventide Home in Dornoch, are faced with closure, which is terrible for the residents. Does the First Minister agree that it would be best if the appropriate officials and representatives of local government and the kirk got round the table and sorted out the problem?

The First Minister: It would be helpful if Highland Council and the Church of Scotland had such a discussion. I am pleased that Jamie Stone helped me with the pronunciation of the home in

Thurso. I am also pleased that, despite the stories that were circulating about the Church of Scotland's decisions and the potential for mass closure of facilities, the church has not immediately pursued such a course of action. There is an opportunity for a reasonable discussion about the way ahead and about the combination of capital investment, services and on-going revenue funding that might be required. The Church of Scotland has a proud record of providing good-quality care for people in Scotland and it is important that it retains as many of its facilities as is appropriate in the 21st century. I hope that that is the case in Jamie Stone's constituency as much as anywhere else.

Mr Adam Ingram (South of Scotland) (SNP): Does the First Minister agree that the situation in which the Church of Scotland finds itself is only the tip of the iceberg of the issue of care home accommodation? Given that local authorities such as South Ayrshire Council are trying to get out of providing such services directly, the question is who will be left to provide such care if action is not taken urgently to ensure that appropriate financial arrangements are put in place. What action is the Executive taking to ensure that there are enough care home places for those who will need them in the future?

The First Minister: The Executive is taking a considerable amount of action, not only in financing existing care home places, but in subsidising the creation of new care home places. Since July 2001, we have provided £130 million to the sector and there will be considerable additional finance in the years to come. We engage constantly in negotiations to reach agreement on the appropriate level of fees so that we do not pay more than required and simply line the pockets of others and so that we can ensure that care home places are properly funded and can be filled.

A combination of services provided by local authorities, by the Church of Scotland and other voluntary providers and by the private sector should be decided at a local level in a way that is most appropriate for the local community and people in the area. That is by far the best way forward. The matter cannot be set out in great detail and determined at a national level; it is right for local authorities to take the lead and for us to provide additional funding. Everybody should be involved in the discussions to secure the best possible way of providing care home places in the future.

Business Motion

15:32

The Deputy Presiding Officer (Trish Godman): The next item of business is consideration of business motion S2M-202, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a timetable for the final stage consideration of the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during the Final Stage proceedings on the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill, debate on each part of those proceedings shall be brought to a conclusion by the time-limits indicated (each time-limit being calculated from when the Final Stage begins and excluding any periods when the meeting of the Parliament is suspended)—

Groups 1 to 3 – no later than 1 hour

Motion to pass the bill – no later than 1 hour 30 minutes—[*Patricia Ferguson.*]

Motion agreed to.

Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill: Final Stage

15:33

The Deputy Presiding Officer (Trish Godman): We now move to final stage proceedings on the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill. I will first make the usual announcement about the procedures that we will follow. [*Interruption.*] If members continue to speak, they will not hear me.

First, we will deal with amendments to the bill, then we will move to the debate on the motion to pass the bill. For the first debate, members should have the bill as introduced; the marshalled list, which contains all the amendments that I have selected for debate; and the groupings, which have been agreed. Amendments will be debated in groups where appropriate. An amendment that has been moved may be withdrawn with the agreement of the members who are present. It is, of course, possible for members not to move amendments should they wish not to do so. The electronic voting system will be used for all divisions. I will allow an extended voting period of two minutes for the first division that occurs. Any subsequent division that is the first division after a debate on a group will be given one minute. Any other division on an amendment will be given 30 seconds.

Section 5—Exclusion zones for navigation, trawling and anchoring

The Deputy Presiding Officer: Amendment 3, in the name of John Home Robertson, is grouped with amendments 4, 5, 6 and 7.

Mr John Home Robertson (East Lothian) (Lab): Responsibility for speaking on the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill was devolved to me because the committee lost its convener to the Scottish Executive—I congratulate Tom McCabe on that—and, even worse, it lost its deputy convener to the vagaries of the Scottish National Party's selection process. Some of us have greatness thrust upon us and that is what seems to have happened to me this afternoon. In that capacity, I will move amendments 3 to 7 on behalf of the bill's promoters.

The amendments in group 1 would remove section 5 and schedules 2 and 3 from the bill. Members will expect a brief explanation of that rather drastic proposal. Section 5 and schedules 2 and 3 provide for an exclusion zone to prevent unauthorised navigation in the immediate vicinity

of the proposed wind farm at Robin rigg. The committee considered matters in detail and concluded that there was a clear need to create new powers to make it an offence to take any vessel into waters close to the wind farm because of the obvious danger that such navigation would create for people working at the wind farm and for the mariners concerned. Section 5 and schedules 2 and 3 were necessary in the absence of appropriate alternative powers to prevent navigation at wind farm sites.

The Robin rigg site will be the first offshore wind farm site in the United Kingdom, so we are literally in uncharted legislative waters. With section 5, we were on the verge of creating a one-off, entirely novel form of maritime exclusion zone, which would have been difficult to explain through the normal channels of notification to mariners, difficult to enforce and whose provisions would have had to be frequently repeated for future wind farm sites around the coast. However, late in the proceedings, our colleagues at the Department for Transport in Whitehall came up with a far more satisfactory, alternative proposal that will provide for not only an exclusion zone at Robin rigg, but wider and clearer powers to establish exclusion zones around wind farms anywhere in the United Kingdom's internal and territorial waters, and, in due course, in the renewable energy zone around the UK coast.

Yesterday, I received a letter from the Secretary of State for Transport—who is, incidentally, also the Secretary of State for Scotland—that gave specific undertakings. It might be helpful to put the key parts of his letter on the record. Alistair Darling states:

“Whitehall Departments and the Scottish Executive have agreed to take the earliest opportunity to introduce legislation allowing the establishment of safety zones around windfarms which will make it a criminal offence for unauthorised vessels to operate or anchor within them.”

He continues:

“In the period before the establishment of safety zones at Robin Rigg, we will seek to rigorously enforce Section 58 (conduct endangering ships, structures or individuals) and the regulations pursuant to Section 85 (3) (k) of the Merchant Shipping Act 1995 to prevent any collision involving a ship which is operating in the vicinity of the wind farm. Evidence of any contravention could be presented to ... the Procurator Fiscal, to consider prosecutions. The Maritime and Coastguard Agency would assist in this matter by passing evidence of possible offences to the relevant prosecution authorities and will also notify mariners once the construction of Robin Rigg commences that the vicinity of the works constitutes an “Area To Be Avoided.” Safety zones would be put in place around all offshore windfarms, including Robin Rigg, as soon as the necessary generally applicable legislation is in place.”

Under the new circumstances, it would serve no useful purpose for us to create a unique statute for an exclusion zone at Robin rigg alone, when

clearer and more effective powers are about to be established to protect wind farms in all UK waters. We can take some satisfaction from the fact that the work of the first private bill committee of the Scottish Parliament has paved the way for general legislation for the UK. That is a good example of the useful job that our parliamentary committees can do.

The bill's promoters are satisfied that the procedure will be a better way to achieve the vital objective of safety in the waters around the wind farm.

I move amendment 3.

The Deputy Presiding Officer: I call Alasdair Morrison, who will be followed by Alex Fergusson.

Alasdair Morgan (South of Scotland) (SNP): I think you mean Alasdair Morgan, Presiding Officer.

The Deputy Presiding Officer: I apologise.

Alasdair Morgan: I am used to that particular confusion.

The bill as introduced had two main sections. The first provided authority for works obstructing navigation and fishing, and the second set up exclusion zones. As John Home Robertson indicated, amendment 3 is a rather drastic proposal to remove entirely the second main section of the bill as introduced.

The amendment would alter the bill significantly, after the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill Committee spent a great deal of time considering it. Much of that consideration was effective and added some good new sections to the bill that we will consider in the closing debate. Amendment 3 comes after the objectors to the bill spent considerable time giving evidence—much of it addressed to the section that the amendment would delete—and after considerable expense on the part of the promoters. Introducing a private bill is no cheap matter.

Are the promoters being perverse in seeking to have section 5 of the bill deleted? For some time, they have come up against obstruction from the Department for Transport in London. That is the subtext of the letter that John Home Robertson cited and of the discussions that have been taking place. Some people at the Department for Transport are annoyed by the fact that the Scottish Parliament is trespassing on what they see as their territory, but we are not on their territory. The bill committee addressed that issue in its preliminary stage report. An ultra vires objection was lodged at that stage, but in its report the committee stated that it was

“satisfied that the Bill falls within the competence of the Scottish Parliament.”

There is no legal problem with what we are doing, but there is a turf war among the promoters, the Parliament and some civil servants in London who do not want to relinquish a jot of their little empire.

What do they offer us instead of exclusion zones? Let us be clear: anyone who knows much about Westminster knows that when it talks about legislating at the first possible opportunity, that opportunity could be decades into the future. Do we have a Sewel motion to approve UK legislation? It is not even as good as that. We have a promise of legislation at an unspecified date in the future. In the interim, we have the use of existing legislation. No doubt a notice to mariners will be issued. Instead of the legally enforceable exclusion zone for which the bill makes provision, we will have advice issued by the Department for Transport.

The mover of the amendment said, in effect, that that is just as good. I beg to differ. In its consideration stage report the bill committee considered the matter in detail. The promoters gave evidence saying that advisory notices would not be sufficient. The committee considered points made by the promoters and others and agreed with them. It stated:

“The Committee takes the view that the three exclusion zones are required:

to properly address the hazard to mariners and for the safety of those who are constructing the wind farm”

and

“to help reduce the risk of collisions between vessels and the wind farm structures.”

The last time the all-party Robin Rigg Offshore Wind Farm (Navigation and Fishing) Scotland Bill Committee met in the previous session, it decided unanimously that exclusion zones were necessary on safety grounds and that existing provisions were not sufficient. Now, on the strength of a letter from the Secretary of State for Transport—who is also the Secretary of State for Scotland and who, in his spare time, thinks that this place is an Assembly—we are meant to believe that those safety grounds can be ignored.

Without further consultation with the committee or new evidence having been considered, we are asked to accept these radical changes, even though the provisions in the bill were examined at length and in the light of considerable evidence. The committee has met and deliberated. All objectors have been heard. Many points have been incorporated in the bill, and I dare say that all the lawyers and agents have been well paid. I do not believe that at final stage we should accept major changes to the bill on the strength of a letter from a UK minister, no matter how many jobs he has.

On other occasions, ministers take much delight in saying that devolution means that things are done differently in Scotland. I suggest that we do things differently on this occasion. There is no way that without much more mature consultation and consideration than we will be allowed in this short debate we should agree to this group of amendments.

15:45

Alex Fergusson (Galloway and Upper Nithsdale) (Con): I refer members to my entry in the register of interests: I have signed an options agreement with a wind farm development company.

For what is probably the first time, I find myself agreeing with Alasdair Morgan. I speak against amendment 3 and against the background that has led to its being lodged. This debate was supposed to take place two weeks ago and we were informed that it had been postponed to accommodate other business. That seemed fair enough at the time, but subsequent inquiries have led me to believe that the real reason for the postponement emanates not from the Scottish Parliament but from Westminster.

In particular I came to understand—and John Home Robertson has now confirmed this—that the Department for Transport had queried the competence of this Parliament to introduce exclusion zones, as set out in section 5. Indeed, the head of the shipping policy 2 division of the Department for Transport states in a letter to Babcock and Brown Ltd:

“We consider it would be wise to avoid establishing a precedent in that Bill”—

in other words, this bill—

“which would appear to confuse or conflict with our future safety zone approach.”

It seems to me that the Scottish Parliament committee that we established to deal with the bill—and let us remember that we are talking not about an Executive bill but about a private bill—stands accused by a Whitehall department of introducing a confusing and possibly conflicting section. The committee spent a great deal of time coming to the conclusion that it was important to have the power to create exclusion zones for the greater safety of everyone involved in the project. If it was so important to have that power, I simply fail to comprehend how the remaining members of the committee can now argue that it is not necessary, on the basis of the vague assurance that UK legislation will be introduced some time in the future to cover the exclusion zone issue.

That opens up the prospect of a vast project consisting of 60 90m-high turbines being erected

in the middle of the Solway firth without the protection or safety provisions that our committee deemed so important that it devoted a complete section to them. If the committee had acted outwith the provisions of the Scotland Act 1998, I could have understood what has happened, but if that had been the case, the committee would have been advised of it early in the proceedings.

Why are we about to allow a project of this scale to proceed without sufficient safety measures in place to

“address the hazard to mariners and to those constructing the works”?

There is a perceived hazard.

Above all, why were members of this Parliament not informed of the true reason for the postponement of the debate two weeks ago? I contend that we have been held in contempt and that the whole issue is shrouded in shady deals between the Government in Westminster and the Scottish Executive. I urge members to vote against amendment 3 this afternoon, for those reasons, but principally because of the safety implications of proceeding without exclusion zones.

David Mundell (South of Scotland) (Con): Mr Morgan and Mr Fergusson have said much of what I wish to say. I attended the two public meetings of the committee that were held in Dumfries and Kirkcudbright and, at that point, the procedures followed by the committee and in the public consultations were welcomed. Everybody came back to Parliament and said how well the committee had done and how well the process had been followed.

Extensive technical evidence was given to those of us who sat through those meetings. Now it seems that all that is to be brushed aside on the basis of a letter from the Department for Transport. I do not agree with John Home Robertson that the Department for Transport is somehow saying what a good job the committee has done and is following that up. If the committee's position now is what it believed before, why did it not take that position at the start? Why has so much time, money and public good will been used up over the months? The navigation issues around wind farms are self-evident.

If the Department for Transport has clear plans to introduce UK legislation, that should have been intimated right at the beginning of the process, before thousands of pounds were spent and before people went to hearings in good faith, thinking that their views were contributing to a parliamentary process. Agreeing to amendment 3 would show contempt for the process and for the public in Dumfries and Galloway who participated in the meetings. I urge members to oppose it.

Mr Jamie McGrigor (Highlands and Islands)

(Con): I sat on the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill Committee and listened to a great deal of evidence regarding concerns about interference with navigation and fishing rights in the Solway, which is the whole point of the bill, so I am very surprised that an amendment that would remove section 5 should be lodged so late in the day, on behalf of the promoters, when those same people and the committee went to such lengths to ensure that the section, about exclusion zones, was put in the bill in the first place.

I have to say that I find the timing and the lack of consultation with the Parliament very unsatisfactory. I understand why the promoters now want section 5 to be removed—they see that it might prevent their bill from getting royal assent—but they agreed, as did the committee, that exclusion zones would be necessary during the possible construction of a wind farm in the Solway, especially for safety reasons. I point out that, in its consideration stage report, the committee stated that the exclusion zones were required

“to properly address the hazard to mariners and for the safety of those who are constructing the wind farm”.

The committee also agreed to the promoters setting the minimum blade clearance at 18m, subject to there being an active management system in place. The point about that is that the active management system was there to ensure that people did not break the exclusion zones. If section 5 is removed, there will be no need for exclusion zones, so why should there be an active management system? John Home Robertson has had a letter, which he says has reassured him enough to change his position. I do not wish to be melodramatic, but Neville Chamberlain had a letter when he came back from Munich.

This is the Parliament's first private bill. It was scrutinised by a committee of the Parliament and that scrutiny should not be diminished by a last-minute compromise.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD):

This is a private bill. It is the wish of the promoters of this private bill to remove section 5. As far as I am concerned, maritime safety is the issue that we are debating and nothing else. We are not debating constitutional issues or party-political bounce—maritime safety is the issue.

I speak as one of the three backbenchers who spent a great deal of time on the Robin Rigg Offshore Wind Farm (Navigation and Fishing) Scotland Bill Committee. We took a great deal of evidence. It was clear to the committee that exclusion zones were necessary. We called them

exclusion zones; the UK Department for Transport is now talking about legally enforceable safety zones. What is the difference between legally enforceable safety zones and exclusion zones? There is none. The UK Department for Transport is talking about having legally enforceable safety zones around all our UK wind farms.

I have been a little disappointed by the tone of some of the speeches that we have heard. I am disappointed that the word "contempt" was used by David Mundell and, I am reminded, Alex Fergusson, who also talked about "shady deals" being done between the Scottish Executive and the UK Government. To cap it all, Jamie McGrigor talked about the Munich agreement and peace in our time. Frankly, that is bizarre.

Alex Fergusson: Having sat on the committee that felt that it was so important to have safety zones—or exclusion zones; I do not mind what they are called—is Mike Rumbles content that a vast construction project of this nature should take place without having in place the safety measures that the committee recommended?

Mike Rumbles: If that were the case, I would not be content, but it is not the case. Alex Fergusson misses the point.

We have already heard excerpts from the letter that was sent from the Department for Transport to Daniel Badger, the promoter of the bill. It states:

"Whitehall Departments and the Scottish Executive have agreed to take the earliest opportunity to introduce legislation allowing the establishment of safety zones around windfarms which will make it a criminal offence for unauthorised vessels to operate or anchor within them."

That is precisely what we were arguing for. The letter adds that the Department for Transport intends that the legislation will apply to all offshore wind farms, whether those are located in internal waters, territorial waters or the renewable energy zone.

Alasdair Morgan: Apart from the fact that it will be up to this Parliament to agree a Sewel motion before those measures apply to Scotland, there is no time scale given in the letter. There is no guarantee that such provisions will apply before the construction of the Robin rigg wind farm starts. Knowing Westminster, I think that it is unlikely that that will be the case.

Mike Rumbles: Okay. That is a fair and valid point. However, let me counter that argument by referring to the same letter, which said that the Department for Transport shared the concern of the promoter and the bill committee about the safety of navigation. The letter continued:

"In the period before the establishment of safety zones at Robin Rigg"—

that is what Alasdair Morgan's point is all about—

"we will seek to rigorously enforce Section 58 (conduct endangering ships, structures or individuals) and the regulations ... of the Merchant Shipping Act 1995 to prevent any collision involving a ship which is operating in the vicinity of the wind farm. Evidence of any contravention could be presented to ... the relevant prosecution authorities."

That would be the procurator fiscal in Scotland.

Alasdair Morgan: If Mr Rumbles is accepting that argument, he is asking us to accept that the consideration stage report of the Robin Rigg Offshore Windfarm (Navigation and Fishing) (Scotland) Bill Committee is wrong when it concludes that the existing legislative provision is inadequate.

Mike Rumbles: No. I do not think that Alasdair Morgan appreciates all the evidence that we received and the conclusions that we came to. We agreed that if nothing further was being done and no legislation was on the way, we would have to do it ourselves. That is the fundamental point, which members are missing because they were not involved in the detail of the evidence taking or in the assessment of the evidence that was presented to the committee.

Mr McGrigor: Mr Rumbles knows that I was involved. Why was there no mention of the safety zones when we started our consultations?

Mike Rumbles: I agree entirely on that point. The problem was brought to the attention of members of the bill committee, of whom Mr McGrigor was one, that objections had been raised by the UK Government. There is no question about that. I do not really see the point that Mr McGrigor is making.

I am trying to emphasise the practical nature of what we are doing. There have been no shady deals. I am not interested in who passes the legislation. I am more concerned about maritime safety. The fact is that the practical measures have to be taken, and we now have a guarantee of UK-wide legislation. I would say this, but I think that the work of the bill committee has led the way, and that it has persuaded the Department for Transport to propose those measures for the whole of the UK, which will avoid their having to be implemented piecemeal.

The Deputy Minister for Enterprise and Lifelong Learning (Lewis Macdonald): The Executive supports the amendments that have been lodged and we believe that they are appropriate.

The assurances that John Home Robertson has received from the Department for Transport follow on from discussions between us and our UK Government colleagues, but I wish to respond to some of the comments that have been made in the debate. Alex Fergusson's point about the

debate being moved from one date to another is a red herring. The original date for the debate was altered because the Education (School Meals) (Scotland) Bill required full consideration. The promoters of the bill were aware of the change of date and, as I understand it, were content as long as the bill reached this stage before the summer recess.

Alasdair Morgan: Could the minister clarify his general position? Does he agree with this statement from Allan Wilson, who was then, as he is still is, the Deputy Minister for Environment and Rural Development? He said:

"the bill is principally a matter for the Parliament and not for the Executive."—[*Official Report*, 9 January 2003; c 16830.]

Lewis Macdonald: Absolutely. I am simply giving the Executive's response to and comments on the debate. I believe that John Home Robertson will sum up on the amendments, as is appropriate. The bill is a private bill, and I am simply putting on the record various matters of fact that I think are important to the Parliament.

Alex Fergusson: Is the minister telling us that, had the debate taken place two weeks ago, section 5 would have remained in the bill and amendment 3 would not have been lodged?

Lewis Macdonald: That is clearly a question for the promoters and for those who lodged the amendments. I am sure that Alex Fergusson will explore that point with them.

Alex Fergusson: Bull's-eye!

Lewis Macdonald: Far from that point hitting the bull's-eye, it was a million miles wide of the mark. The bill had to be discussed quickly and it has been discussed within a few days of the initial date for the debate, for reasons that have been explained. That was accomplished by the Parliamentary Bureau, which should be congratulated by those of Alex Fergusson's opinion, because the rescheduling of this debate has allowed a few more days for amendments to be lodged. Mr Fergusson did not take that opportunity, but what has happened has not in any way taken away from Parliament's ability to consider and discuss the bill properly.

The idea that an amendment being introduced at this stage in some way constitutes contempt for the process is simply bizarre. In my view, it is further evidence of the robust good health of the Scottish Parliament and its committee system. I will come on to that in a moment.

The committee that considered the bill has explored the key issues raised in the amendments, and it took the view that legislation was required. That is acknowledged on all sides. Following the committee's taking that view, we

held discussions with our United Kingdom colleagues and decided that legislation should be introduced as soon as possible.

16:00

Phil Gallie (South of Scotland) (Con): I am, to some extent, a newcomer to this debate. I want to pick up on an issue that Mike Rumbles raised. He said that the Merchant Shipping Act 1995 covers the safety of maritime movements around rigs. If that is the case, why are we considering further legislation and, if that is not the case, what time scale is the minister putting on that legislation?

Lewis Macdonald: If Mr Gallie will have a little patience, I will come on to answer both his points. The important point about the bill and its implications for safety zones around marine installations is the one that John Home Robertson made in his introduction. The committee has highlighted the need to clarify the position not only at Robin rigg but wherever similar installations are put in place. That will require a development of the policy on safety zones around offshore installations of various kinds. Members should bear in mind the fact that the Robin rigg wind farm will physically be a much larger installation than the offshore oil and gas rigs that are covered by the Petroleum Act 1998. By highlighting those issues, the committee has made the case for legislation that will affect Robin rigg but not only Robin rigg. That is an important point. The Robin rigg committee has considered and highlighted the issues, following which we and our colleagues in the UK Government have acknowledged the need to make progress on the issue of safety zones round renewable energy installations of every kind. The benefit of the work of the committee will not be confined to this single case—important though that case is—but will be spread out over the offshore renewable energy industry as a whole.

Phil Gallie asked about existing legislation. John Home Robertson has been assured by the Department for Transport that the Maritime and Coastguard Agency will enforce the existing legislation rigorously in the meantime, until safety zones are properly introduced.

Alasdair Morgan: One thing confuses me in what the minister and the mover of the amendment said. The section on exclusion zones was in the bill when it was first introduced. It did not appear as a result of the committee's deliberations but was put there by the promoters of the bill—I presume as a result of their legal advice and as a result of consultation with ministers. If it is shown that that advice was faulty, will the promoters—and perhaps even the Parliament—be able to recover the costs that have been incurred during the debates on this issue?

Lewis Macdonald: Alasdair Morgan is missing the point entirely. The point is that consideration of the bill as first introduced has developed the case. I would be surprised if anyone who served on the bill committee did not take that view. As a result of the development of the case, we and our colleagues in the UK Government have recognised the need for a more wide-ranging legislative basis for similar safety zones for offshore renewable energy installations in general. Until that necessary legislative change is made, the MCA will enforce the existing regulations rigorously. That is not to say that the existing regulations are inadequate, but it is to say that we acknowledge that they need to be clarified and built on. The specific assurance that the existing regulations will be enforced in relation to Robin rigg will be welcomed by the promoters of the bill and by all concerned.

The question of enforcement, significant though it is, is one on which the developers have accepted the assurances of the Department for Transport. They regard that as an adequate basis on which to go forward.

The Deputy Presiding Officer: I call on John Home Robertson to wind up and to confirm whether he wishes to press or withdraw amendment 3.

Mr Home Robertson: Oh dear. Who would believe that anybody would try to whip up a constitutional crisis over a tidal sandbank in the middle of the Solway firth?

Alex Fergusson: Perhaps John Home Robertson could answer the question that I asked the minister. If the debate had taken place when it was originally scheduled to take place, would John Home Robertson have lodged amendment 3?

Mr Home Robertson: I am coming to that matter, if the member can contain himself.

There is no doubt that we could enact section 5 if we wanted to, as the Presiding Officer received legal advice that that could be done and the bill was accordingly certified as it was originally printed. The point is that it would serve no useful purpose to do so, as we will get something that is far more effective and satisfactory and significantly safer. That will be done not on the basis of a vague assurance, as Alex Fergusson said, but on the basis of a specific undertaking from the Secretary of State for Transport.

Alasdair Morgan and David Mundell are a bit mischievous in referring to the committee's proceedings. David Mundell will recall that we received many representations from the Solway Yacht Club and the Royal Yachting Association asking us to take section 5 out of the bill. They did not like the idea of having an exclusion zone, but the committee decided that there was a need for such a zone.

Mr Andrew Welsh (Angus) (SNP): Will the member say exactly when we will get something better? Who gave assurances to the member?

Mr Home Robertson: I have an assurance in writing from the Secretary of State for Transport and Secretary of State for Scotland. Andrew Welsh was a member of the House of Commons for almost as long as I was and he knows that nobody can give exact times, but it will be as soon as possible. In the meantime, other provisions under the Merchant Shipping Act 1995 will be enforced, as the secretary of state has outlined.

Chris Ballance (South of Scotland) (Green): If we vote for the amendment, will the member give us an assurance that the proposals will definitely be brought forward and that, by voting for the amendment, we will cause the promoters no delay?

Mr Home Robertson: That is the key point. Members know that I certainly cannot bind anyone to do anything at Westminster, but I have received a clear public undertaking—which has been given not just to me and the Parliament, but directly to the Executive—that things will be done at the earliest opportunity. However, the point that the member has raised is important because getting into a wrangle about the matter could delay progress, which would be unfortunate.

Lewis Macdonald: The assurance that John Home Robertson has received is based on discussions between the UK Government and the Scottish Executive. Therefore, we will seek the matter to be brought forward as soon as possible. If Chris Ballance is concerned in any way about the timetable, he may ask such questions again when we return to the chamber after the recess.

Mr Home Robertson: The fundamental point is that we will get something that is better and more effective. I fully realise that the SNP's main concern is to create constitutional aggravation, which is fair enough, as that is its job, but my concern is for the safety of mariners and people working on the wind farm. The debate has been a distraction. A better solution is available to us and I urge members to support amendment 3.

The Deputy Presiding Officer: The question is, that amendment 3 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)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Mr Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)

Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 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)
 May, Christine (Central Fife) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Gallie, Phil (South of Scotland) (Con)

Gibson, Mr Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Mr Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 65, Against 30, Abstentions 0.

Amendment 3 agreed to.

Section 7—Local consultation

The Deputy Presiding Officer: Amendment 1, in the name of John Home Robertson, is in a group on its own.

Mr Home Robertson: I hope that we can deal with this amendment rather more quickly. Amendment 1 is a minor and technical amendment to tidy up the drafting of section 7, which deals with local consultation on the marking and lighting of the wind farm. The amendment would not alter the effect of section 7 in any way but would simply remove a redundant cross-reference to section 4. The purpose of section 7 is to require the Commissioners of Northern Lighthouses to consult local yachting interests and others on proposals for the lighting and marking of the wind farm. That is what will be done.

I move amendment 1.

The Deputy Presiding Officer (Murray Tosh): I have had no requests to speak from members or from the minister, so I assume that John Home Robertson has nothing to add in summation of the debate that has not taken place.

Amendment 1 agreed to.

Amendment 4 moved—[Mr John Home Robertson]—and agreed to.

Section 8—Decommissioning

Amendment 5 moved—[Mr John Home Robertson]—and agreed to.

The Deputy Presiding Officer: Amendment 2, in the name of John Home Robertson, is in a group on its own.

Mr Home Robertson: Amendment 2 will strengthen section 8 on decommissioning. After hearing evidence at consideration stage, the committee agreed to what is now section 8 to ensure that the Robin rig site will be properly cleared whenever it is that the wind farm stops generating electricity. Our first report of 2003 goes into the subject in some detail. We wanted to ensure that the Solway firth will be fully returned to its original state when the turbines stop operating. In view of the circumstances that can arise when companies collapse or stop trading, section 8 requires appropriate insurance to be in force at all times and specifies the form that such insurance must take.

Amendment 2 will create a specific requirement that the site must be fully cleared, with all traces of the wind farm removed and with no residual impediments to navigation and fishing. The amendment will ensure that “decommissioning” cannot be interpreted as simply shutting down the operation of the turbines. I hope that all members will endorse this important safeguard to avoid the risk of leaving industrial dereliction in the Solway firth.

I move amendment 2.

The Deputy Presiding Officer: Before calling the next speaker, I invite those members who require to have animated conversations to continue them outwith the chamber.

Alasdair Morgan: I support amendment 2. I think that the only other engineering project of this scale to have taken place in the Solway firth was the erection of the Solway railway viaduct in the 1860s. Despite having been hardly used by trains for about 70 years, it was not removed until about the mid-1930s and in the interim caused some considerable interruption to navigation. Therefore, it is wise to provide for an obligation and a guarantee that industrial structures of this magnitude will be removed once they are no longer needed.

Lewis Macdonald: I simply record that the Executive welcomes amendment 2. The provision is very much in line with the condition attached to the consent issued under the Electricity Act 1989 for the Robin rig development.

Amendment 2 agreed to.

Schedule 2

CONSTRUCTION EXCLUSION ZONE

Amendment 6 moved—[Mr John Home Robertson]—and agreed to.

Schedule 3

TRAWLING AND ANCHORING EXCLUSION ZONE

Amendment 7 moved—[Mr John Home Robertson]—and agreed to.

Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill

The Deputy Presiding Officer (Murray Tosh):

As soon as I can find the right point in my script, we will move to the debate on motion S2M-121, in the name of Mr Tom McCabe, on the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill.

16:15

Mr John Home Robertson (East Lothian) (Lab): Last June, the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill was the first private bill to be introduced in the first session of our first Parliament in 300 years. It was overtaken by the National Galleries of Scotland Act 2003, but today it becomes the first private bill to be considered and—possibly—enacted in our second session.

I should explain that I was a member of the committee that scrutinised the bill and that my role is to move the motion that the bill be passed; I have nothing to do with the bill's promotion, because private bills are, of course, introduced by a private promoter—in this case, Offshore Energy Resource Ltd and Solway Offshore Ltd—who seeks to obtain powers or benefits that are in addition to, or in conflict with, the general law.

I must highlight the role of my colleague Tom McCabe in the bill's consideration. He was the convener of the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill Committee, which was charged with the examination of the bill, and he was the main player in its scrutiny and consideration. He kept everyone—including Jamie McGrigor, Mike Rumbles and the witnesses—in order and he brought great style to the quasi-judicial proceedings and to the administration of formal oaths.

The fundamental purpose of the bill is to make it possible to construct the first offshore wind farm in Scottish waters. We have wind and waves in abundance around Scotland's coastline, so there might well be a case for developing renewable energy initiatives to exploit that massive potential. However, as the member for East Lothian, I must observe that there will always be a need for excellent base-load electricity generators, such as the power stations at Torness and Cockenzie, to avoid the risk of power cuts. There can be no doubt that, for the foreseeable future, nuclear power will remain the best way of generating electricity for homes and businesses throughout the United Kingdom without emitting greenhouse gases.

I must get back to renewable energy.

Bruce Crawford (Mid Scotland and Fife) (SNP): Does the member agree with my arithmetic on the number of megawatts of electricity that are produced in Scotland? The total capacity is 9,500MW, of which nuclear power is responsible for only 2,500MW. Our peak winter demand is 6,000MW. Those figures suggest that, even without nuclear power, the lights would not go out; they certainly did not go out when Torness was down for a considerable number of weeks.

The Deputy Presiding Officer: Although we have a reasonable amount of time, we should not be broadening out the debate beyond—

Bruce Crawford: John Home Robertson started it.

The Deputy Presiding Officer: I know who started it, but let us not continue in that direction.

Mr Home Robertson: I apologise; I was taking liberties. I am in favour of exporting electricity from Scotland and of creating jobs in Scotland. The Parliament would expect me to make that point.

In their memorandum, the bill's promoters have rightly stated that Scotland has

"the most productive onshore and offshore wind energy resource in Europe."

Members of all parties will agree that we should encourage the development of that plentiful source of natural energy as a valuable supplement to the nation's supply of electricity.

Before I turn to the bill's purpose, I will describe the processes that we have gone through to reach the final stage and I will comment briefly on the nature of the private bill process. The bill was introduced almost exactly a year ago, on 27 June 2002. There followed an obligatory 60-day objection period. We had a preliminary evidence session in Dumfries on 11 November. The preliminary stage concluded on 9 January, when the Parliament agreed to the general principles of the bill and decided that it should proceed as a private bill. The Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill Committee scrutinised the bill at the consideration stage. We held a meeting in Kirkcudbright on 24 February; we met again on 6 and 11 March; we reported our findings on objections to the bill on 14 March; and amendments were considered at a final meeting of the committee on 26 March. The bill has therefore been subjected to careful and detailed scrutiny.

I have already made the point that the Robin Rigg bill was the first private bill to be considered by the Parliament and I believe that the committee and our officials and lawyers have done a careful and thorough job. We took time and care to listen to objections to the bill and to address concerns

and comments. Sometimes those issues were complex and technical—from radar technology to wave patterns—and on other occasions they were rather more straightforward.

What does the bill do? It provides for the regulation of the construction and maintenance of a wind farm, and for that purpose it establishes a statutory authority for the promoters to interfere with the public right of navigation and fishing. The promoters are seeking to build an offshore wind farm consisting of 60 wind turbines on the Robin rigg sandbanks, located 8.5km from Balcary point in the Solway firth.

The bill does not give authority for the building of the wind farm or for the generation of electricity. It is only one of several applications relating to the proposed wind farm. Others considering those applications include the Scottish Executive and relevant authorities in England at local and national level. The promoters described the bill as “part of a jigsaw of consents and authorities being sought”

and the private bill process was something of a puzzle for those of us who served on the Robin rigg committee. We are a little wiser now, but I ask colleagues to refer any vexing technical or procedural questions to the non-Executive bills unit, where they will find clever people who understand that sort of thing.

On behalf of the committee that considered the bill I express gratitude to a lot of people.

First, thanks are due to the promoters of the bill, Offshore Energy Resource Ltd and Solway Offshore Ltd, for their thoroughness in preparing documents and willingness to fully engage in a process that is new to all of us. They caused us some anxiety when it emerged that they had inadvertently based some of their evidence on technically inaccurate information, which made it necessary to hold a further session to get it right. We are now satisfied that their case is well founded.

We thank all those individuals and bodies who submitted objections to the bill. We intended the process to be open and accessible, and we took careful account of all relevant concerns. We thank the expert witnesses who ably informed our more difficult deliberations. Finally, we thank the staff of our non-Executive bills unit, who made the whole thing work with characteristic charm and efficiency.

I would also like to personally thank my colleagues who took part in the specially constituted private bill committee for their diligence and good humour. The bill meant a significant commitment of time and energy in the run up to an election and those colleagues’ devotion to duty should be noted. They are: Tom McCabe, who

was filling in time between ministerial posts as convener of the committee; Colin Campbell, who has sadly left the Parliament; and Jamie McGrigor and Mike Rumbles, who are sadly still members of the Parliament.

Before concluding, I must give a quick summary of the main issues addressed by the committee. On 9 January, when Tom McCabe spoke in advance of the consideration stage of the bill, six areas were outlined for further work.

First was the minimum clearance between the lowest point of any rotor blade and the level of high water. The committee took a considerable amount of evidence on that, including a specially convened extra meeting. The safety of seafarers and the dangers of collision are obviously matters of serious concern. After much detailed examination we concluded that the 18m minimum clearance set by the promoters was acceptable, subject to the establishment of an active management system—AMS—that would enable the turbine blades to be shut down within 60 seconds by a remote controller in the event of any emergency. Details of the AMS were subsequently provided for by amendment to the bill.

Secondly, and linked in safety terms to my first point, was the navigational risk assessment with particular regard to the risk of collision with leisure craft. It was concluded that the risk was low, but not negligible, and that it could be minimised by appropriate marking and effective notification as planned by the promoters. The committee also took the view that the precautionary principle should be applied to that aspect of the bill.

The third point was the potential impact, if any, on the operation of global positioning systems and radar. Members who know about electromagnetics will understand those matters better than I. Briefly, radio, radar and VHF communication might be marginally affected in the immediate location of the wind farm, but GPS should not be affected. The committee welcomed the further testing by the promoter, and endorsed plans to mark and light the structures as indicated to assist any vessel in trouble to identify and report its position clearly.

Fourthly, as I have already explained, before we took section 5 out of the bill this afternoon, the committee was concerned about risks that could arise from vessels seeking to navigate among the turbine structures, risks to the wind farm equipment, risks to people working on the construction and maintenance of the equipment, and risks to the mariners concerned. Section 5 would have provided for an exclusion zone at Robin rigg, but it obviously makes far more sense to set a UK framework for clearly enforceable exclusion zones around wind farms throughout the territorial and adjacent waters of the United Kingdom. That is now going to be done by the

Secretary of State for Transport who, by happy coincidence, also happens to be the Secretary of State for Scotland. That is the best way to provide the necessary protection for such sites.

The fifth issue was the important matter of ensuring that structures and equipment are properly cleared from the Robin rigg site whenever the wind farm is decommissioned. The committee concluded that a third-party bond should be put in place to provide insurance against the costs of decommissioning and removal. That provision was added to the bill by amendment, and has been further strengthened by amendment 2 today.

The sixth and final point related to the significance of fishing in the affected area. I will resist the temptation to defer to Jamie McGrigor, the committee's resident nephrop, on this point, but I can report that the people representing fishing interests who had initially lodged objections to the bill—mainly from Cumbrian fishing communities—withdrawed their objections after reaching agreement with the promoters.

The committee has given this potentially valuable initiative very careful consideration, and on that basis I move,

That the Parliament agrees that the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill be passed.

16:27

Alasdair Morgan (South of Scotland) (SNP): I will be brief, as I think that most members would rather be elsewhere. Clearly, chairing the committee brought its reward to Mr McCabe.

I welcomed the bill at its preliminary stage. The committee strengthened it significantly and well at consideration stage, with the new sections on the active management system, consultation and decommissioning. Those all came out of committee considerations, so they are valuable.

I have already said today, and I will not reiterate it at length, that I am unhappy with the deletion of exclusion zones. That is a regrettable diminution of the quality of the bill, but it is not fatal to it.

Having said all that, I welcome the Robin rigg project. I hope that it will set a trend for a large number of renewable energy projects of all kinds, not just wind farms. They are vital if we are to counter the likely prospect of climate change. The project is large, and it and other projects have the potential to bring large numbers of jobs to areas where they are in short supply.

I hope that the developers are able to fill the funding gap that I understand they are experiencing at the moment as a result of the financial difficulties of the firm TXU, and that the project goes ahead as soon as possible. I suspect

that it will proceed much quicker than any legislation on this area at Westminster.

Finally, any proposal of this kind always results in local objections on the ground of amenity. They are not the subject of this bill, and should not influence a vote on it, but it is worth pointing out that, even in the local area, just as many people supported the development. However, as is the nature of this kind of thing, we always hear the people who are against, and we rarely hear the people who are in favour. The people who supported this development did so because of a commitment to the need for and the desirability of renewable energy.

16:29

Alex Fergusson (Galloway and Upper Nithsdale) (Con): I now have to divert from my previous agreement with Alasdair Morgan, I am afraid, but he will not be surprised about that.

Having just dealt with the final stage amendments to the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill, to give it its full title, I want to express my disappointment that there was not one more amendment to debate. While I quite understand that it was deemed to be outwith the remit of the bill, I tried to lodge an amendment that, in effect, would have meant that the bill could not have been enacted until the project itself had been subjected to the full and open scrutiny of a public inquiry.

I have always backed that view. It is one that is shared by all three local authorities north and south of the Solway, Scottish Natural Heritage, the Royal Society for the Protection of Birds and others, including the vast majority of my constituents, who are the people who will be most directly affected by the proposal. The background to the removal of section 5 from the bill this afternoon exacerbates the need for such an inquiry. I make a last-ditch plea to the Executive to hold one.

Just after the election, I listened with interest to a televised debate between Lewis Macdonald and Rosie Kane on the subject of the M74 extension. During the debate, the minister said something to the effect—I cannot quote him accurately, but I am sure that he will tell me if he did not say words to this effect—that it was right and proper that the people who are affected by major proposals should have the opportunity to be able to air their views and have their concerns listened to.

Only last week, the Minister for Transport, Nicol Stephen, issued a press release on the announcement of the inquiry into the M74 extension. In the release, the minister said:

"The proposed completion of the M74 is a very significant transport project and it is right that those who have concerns are given the chance to have their say."

The Robin rigg wind farm is a very significant renewable energy project and yet, apparently, it is not right that those who have genuine concerns are given the chance to have their say.

Another project in Galloway and Upper Nithsdale proposes the construction of a waste transfer station in the town of Dalbeattie. The local council approved the plan by the narrowest possible vote, but the local area committee of the council voted against it. The Scottish Executive magnanimously granted an inquiry into that proposal and yet the Robin rigg proposal is denied one, despite opposition from the Executive's environmental advisers, Scottish Natural Heritage, the local authorities and the other organisations that I mentioned earlier.

The decision defies belief—it smacks of a big brother mentality. It is all the more unbelievable when one realises that not one kilowatt of electricity from Robin rigg will come to Scotland. I presume that that means that the project will not count towards Scotland's renewable energy production target.

I will close by reaffirming what I said in the stage 1 debate. I am not anti-wind farm. However, the concerns of many of my constituents, coupled with the dubious background to the removal of section 5 from the bill this afternoon, forces me to vote against the bill. That is virtually the only way that is open to me to express my dissatisfaction at the undemocratic handling of the bill. I urge others to do the same.

16:32

David Mundell (South of Scotland) (Con): It will not surprise Alex Fergusson to find that I will also be voting against the bill. I accept that we are debating only an enabling measure for the project, but the vote on the debate is our one opportunity to express opposition to the project. The debate allows us to reiterate the fact that the expressed view of the local council and the people of Galloway and Upper Nithsdale—certainly those who voted on 1 May—is against the proposal. The equivalent of 60 Blackpool towers will be put into the Solway between areas of scenic beauty in Dumfries and Galloway and the fringes of the Lake District. Surely that is worthy of a public inquiry.

I have complimented the process and Mr McCabe's handling of the meetings that took place in Dumfries and Kirkcudbright. The positive aspect of the process was to see the committee going out to the local people. It is disappointing that the process has been undermined this afternoon by what amounts to a back-door deal with the

Department for Transport. That department, the Executive and others should have raised issues in the full glare of local public scrutiny and not behind the scenes.

I will be brief. My view of the project has not changed since the comments that I made in the stage 1 debate. Members can read them in the *Official Report*. I agree with John Home Robertson on one issue, which is the nuclear issue. The Chapelcross nuclear power station has provided an enormous boost to the economy of Dumfries and Galloway in its 40 years of safe operation. The Robin rigg project will not add a single penny to the local economy, but we will have to take all the pain of the blot that it will make on the landscape.

16:34

The Deputy Minister for Enterprise and Lifelong Learning (Lewis Macdonald): The Executive strongly supports the full development of our renewable energy resource. Renewable energy forms an important plank in our climate change programme. It will make a considerable contribution to our ability to meet our international commitments to reduce emissions of greenhouse gases. More than that, it will make a significant contribution to our policy of ensuring a competitive, diverse and sustainable electricity supply.

As John Home Robertson said in his opening remarks, today's debate is about the subjects covered by the bill; it is not about the consents processes, which at least two of the members who have spoken have talked about. The proposed wind farm at Robin rigg has now received consents from the Scottish ministers under the Electricity Act 1989, the Coast Protection Act 1949 and environmental protection legislation. The project will now make a significant contribution to achieving our renewable targets.

Alex Fergusson: I accept what the minister says about the bill not being about the project itself. However, will he take this opportunity to tell me what the difference is between those who have genuine concerns about the Robin rigg project and those who have genuine concerns about the M74 extension?

Lewis Macdonald: Each and every application for a consent, whether under the Electricity Act 1989, road traffic legislation or planning legislation, must be considered on its merits. In making their decision, the Scottish ministers took into account the responses of statutory consultees, the environmental assessment and the objections that were made. We reached a decision, as it is appropriate that we should do.

We recognise the potential that renewable energy has to create employment and economic development opportunities, not least in rural parts of Scotland. There is already the example of the Vestas-Celtic Wind Technology Ltd plant at Campbeltown in Kintyre, which has created more than 150 jobs. The Cambrian Engineering (Cymru) Ltd site at Arnish on the Isle of Lewis will also create jobs where they are much needed. Although it is early days, good work is being done to attract to Dumfries and Galloway manufacturing jobs that arise as a result of the Robin rigg wind farm project.

Robin Harper (Lothians) (Green): I did not get my question quite right earlier. Does the minister agree that, if the electricity from Robin rigg had been connected to Dumfries and Galloway, all the spare capacity in the area would have been taken up, thus making it impossible for other renewable projects, not simply wind farms, to be put in place in the south-west of Scotland?

Lewis Macdonald: That is why the capacity to deal with additional renewable energy generation in the south-west of Scotland, as elsewhere, is so important. However, it is worth noting that the electricity that is generated in the Solway firth in Scottish waters will contribute towards Scotland's targets for renewable energy generation, as well as towards those for the United Kingdom as a whole.

There are other prizes to be won in the form of the jobs that we could secure if Scotland were to obtain a leading position in the development of industries based on marine energy technologies. That is why the Executive is funding the marine energy test centre in Orkney and the establishment of the energy intermediary technology institute in Aberdeen. Robin rigg will not be the last that we hear of renewable energy in Scottish waters.

As John Home Robertson said, the bill was the Parliament's first private bill and the committee must take great credit for its work in dealing with a process that was new to the Parliament. The thoroughness with which the committee scrutinised the bill and its attention to detail in its hearings has had wider benefits.

That is most obvious in two respects. One, which we have discussed at some length, relates to safety issues in the construction of a series of large structures in the Solway firth for the generation of renewable energy. The issues that the committee raised have, as we have discussed, resulted in agreement between United Kingdom ministers and Scottish ministers about the need for enforceable safety zones in and around offshore energy installations.

The second matter, which was also dealt with by an amendment, relates to the decommissioning

and full restoration of the site once the wind farm has been decommissioned. In respect of the Robin rigg wind farm, that is covered by a condition to the consent issued by the Scottish ministers under the Electricity Act 1989. It is also covered by the bill in the terms that we have discussed. Scottish ministers undertake to discuss with our UK counterparts any wider implications for future wind farm construction in Scottish and UK waters. We will take those matters forward.

The committee's work in those areas demonstrates the advantages of devolution not only to Scotland, but to the good governance of the UK. Those are significant achievements. The Robin rigg private bill committee and the Parliament's committee system deserve great credit for those achievements and the Scottish ministers support the passage of the bill as amended today.

16:40

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I thank members for their contributions to the debate. Particular thanks go to John Home Robertson for his kind words about Jamie McGrigor and me.

Presiding Officer, you will note how non-partisan we were on the committee. We were full of humour—I think that is how Tom McCabe described it to me when we had finished our work. We took a genuinely non-partisan approach throughout our work. The committee members took a quasi-judicial role and we were selected because we had no direct interest or influence in the area, as was appropriate. It is a matter of sadness, however, that that non-partisan approach was not reflected in what went on in the chamber when we were discussing the final stage amendments.

The committee members and objectors to the bill both influenced the process markedly. The active management system was introduced to allow the promoters to increase the blade heights of the turbines to improve the efficiency of the wind farm. There was a thorough examination of navigation risk to small recreational vessels, which would probably never have occurred otherwise. We examined the effect of the proposals on radar to ensure the safety of vessels in the area. We established that there was a requirement for exclusion or safety zones—whatever one wants to call them—for the safety of all involved. Those measures will now be applied to all the developments in UK waters, which is to be commended.

We were satisfied that the concerns of fishing interests were adequately scrutinised. We put in place adequate markings and notifications to the

satisfaction of local mariners. We also put in place stringent decommissioning requirements, which have been strengthened further by the amendment agreed to today.

I thank those who gave evidence to and assisted the committee in its work. Succinctly, I commend the bill to Parliament.

Parliamentary Bureau Motions

16:43

The Presiding Officer (Mr George Reid): The next item of business is consideration of three parliamentary bureau motions.

Motions moved,

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the Vulnerable Witnesses (Scotland) Bill.

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Criminal Justice (Scotland) Act 2003 (Saving and Transitional Provisions) Order 2003 (SSI 2003/287).

That the Parliament agrees that the Justice 1 Committee be designated lead committee in consideration of the Drugs Courts (Scotland) Order 2003 (SSI 2003/290).—[*Patricia Ferguson.*]

Motion without Notice

16:43

The Presiding Officer (Mr George Reid): We are a bit ahead of ourselves, so I am minded to take a motion without notice to bring forward decision time.

Motion moved,

That, under Rule 11.2.4 of Standing Orders, Decision Time on Thursday 26 June be taken at 4.43 pm.—[*Patricia Ferguson.*]

Motion agreed to.

Decision Time

16:43

The Presiding Officer (Mr George Reid):

There are six questions to be put as a result of today's business. The first question is, that motion S2M-143, in the name of Ross Finnie, on the draft Landfill (Scotland) Amendment Regulations 2003, be agreed to.

Motion agreed to.

That the Parliament agrees that the draft Landfill (Scotland) Amendment Regulations 2003 be approved.

The Presiding Officer: The second question is, that motion S2M-136, in the name of Mr Andy Kerr, on the Fireworks Bill, which is UK legislation, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Mr Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 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)
 May, Christine (Central Fife) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)

ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Mr Rob (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Mr Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)

Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 83, Against 2, Abstentions 26.

Motion agreed to.

That the Parliament endorses the principle of making enabling regulations for the supply and use of fireworks as set out in the Fireworks Bill and agrees that those provisions in the Bill that relate to devolved matters should be considered by the UK Parliament.

The Presiding Officer: The third question is, that motion S2M-121, in the name of Mr John Home Robertson, on the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Baird, Shiona (North East Scotland) (Green)
Baker, Mr Richard (North East Scotland) (Lab)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Canavan, Dennis (Falkirk West)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Fox, Colin (Lothians) (SSP)
Gibson, Mr Rob (Highlands and Islands) (SNP)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marlyn (North East Scotland) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Kane, Rosie (Glasgow) (SSP)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Leckie, Carolyn (Central Scotland) (SSP)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (North East Scotland) (SNP)

Lyon, George (Argyll and Bute) (LD)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
Maclean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Campbell (West of Scotland) (SNP)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Mr Jim (Highlands and Islands) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
May, Christine (Central Fife) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McFee, Mr Bruce (West of Scotland) (SNP)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Morgan, Alasdair (South of Scotland) (SNP)
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)
Neil, Alex (Central Scotland) (SNP)
Oldfather, Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Radcliffe, Nora (Gordon) (LD)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North East Fife) (LD)
Smith, Mrs Margaret (Edinburgh West) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Stevenson, Stewart (Banff and Buchan) (SNP)
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
Sturgeon, Nicola (Glasgow) (SNP)
Swinburne, John (Central Scotland) (SSCUP)
Swinney, Mr John (North Tayside) (SNP)
Tosh, Murray (West of Scotland) (Con)
Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
Wallace, Mr Jim (Orkney) (LD)
Watson, Mike (Glasgow Cathcart) (Lab)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Goldie, Miss Annabel (West of Scotland) (Con)
Johnstone, Alex (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Monteith, Mr Brian (Mid Scotland and Fife) (Con)
Mundell, David (South of Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)

ABSTENTIONS

McGrigor, Mr Jamie (Highlands and Islands) (Con)

The Presiding Officer: The result of the division is: For 100, Against 13, Abstentions 1.

Motion agreed to.

That the Parliament agrees that the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill be passed.

The Presiding Officer: The fourth question is, that motion S2M-195, in the name of Patricia Ferguson, on the designation of a lead committee, be agreed to.

Motion agreed to.

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the Vulnerable Witnesses (Scotland) Bill.

The Presiding Officer: The fifth question is, that motion S2M-196, in the name of Patricia Ferguson, on the designation of a lead committee, be agreed to.

Motion agreed to.

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Criminal Justice (Scotland) Act 2003 (Saving and Transitional Provisions) Order 2003 (SSI 2003/287).

The Presiding Officer: The final question is, that motion S2M-197, in the name of Patricia Ferguson, on the designation of a lead committee, be agreed to.

Motion agreed to.

That the Parliament agrees that the Justice 1 Committee be designated lead committee in consideration of the Drugs Courts (Scotland) Order 2003 (SSI 2003/290).

The Presiding Officer: That concludes decision time. I wish all members a happy vacation.

Carers

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S2M-110, in the name of Irene Oldfather, on valuing carers.

Motion debated,

That the Parliament recognises the hard work and dedication of Scotland's 115,675 unpaid carers, a workforce comparable to the total NHS workforce in Scotland; acknowledges the role of Scotland's carer population as partners in the provision of care; recognises the measures outlined in *Partnership for Care: Scotland's Health White Paper* and in the Community Care and Health (Scotland) Act 2002 to increase partnership working across the health and social care services; notes that the health and well-being of many carers are affected as a direct consequence of the physical and emotional strains of caring; welcomes the dedication of care assistants across Scotland in providing vital respite services to carers and their families; congratulates the UK-wide network of 30,000 Princess Royal Trust for Carers centres on the level of support that they provide to carers and their families; recognises that there are many more unidentified carers in Scotland and that, for appropriate support to be administered, these carers must be identified; further welcomes the publication of *Focus on Carers and the NHS - identifying and supporting hidden carers - Good Practice Guide* by the Princess Royal Trust for Carers and the strategies for identifying carers contained therein, and considers that the Scottish Executive should target resources specifically on identifying and supporting carers in order that the vision underpinning recent legislation can be realised.

16:47

Irene Oldfather (Cunninghame South) (Lab): I thank all the members who signed the motion and those colleagues who have stayed behind in this final meeting of Parliament before the summer recess. The motion has attracted a great deal of support from across the political spectrum and it is fitting that the final word before the recess should be on the needs of carers.

When we set up the Parliament, we wanted it to change the lives of ordinary people. Much has been achieved in the past four years. In 1999, a carers strategy was published that identified priority areas for action, which included the introduction of legislation to allow carers' needs to be met; the promotion of new and flexible services including respite services; giving attention specifically to young carers; and the provision of better and more targeted information. No one can doubt that we have come a long way.

Six hundred thousand people in Scotland have caring responsibilities—some of them are in the chamber tonight—and around 116,000 people in Scotland care for someone on an unpaid basis for more than 50 hours a week. Those are the people whom we know about, but there are probably more who do not register in the statistics.

I will share with colleagues the story of Mary, who was the first ever constituent to come to one of my constituency surgeries. When she came in, she sat down and began to weep uncontrollably. She was an 84-year-old carer who was looking after her 45-year-old terminally ill son, who had Huntington's chorea. The week before, she had collapsed in the street with exhaustion and had been taken to hospital by ambulance. She discharged herself because she saw herself not as a carer, but as a mother—to her mind, looking after her son was her responsibility and there was no one else to do it.

Taking the first step to ask for help was very hard for Mary, but once she finally did it, she did not look back. We immediately arranged for Mary to receive help from day care respite services and help in the home—help to get her son ready for bed and to get him up in the mornings. A few weeks later, she came back to my surgery smiling. Regrettably, she died a year later: as with many carers, her own health suffered. However, she was supported in that last year of her life and respite care enabled her to keep her son at home for an extra year, which is what she wanted.

Respite care is a lifeline for carers, as it can provide an anchor to sanity and rest in what is too often the turmoil, pressure and stress of caring for a loved one. I guess that there are many official definitions of what a carer is, but I believe that a carer can be summarised as someone who puts their own life—or at least part of their life—on hold to allow someone else to live to the best of their ability.

From the perspective of a carer, respite services are a bit like a fairy godmother. Too often, however, respite care is seen as the Cinderella of the social services and it can be the first area to suffer. We are rightly proud of the home help service, but in local authorities in which the staff are multifunctional and provide both home help and respite care, the respite care service is often the first to suffer. Also, despite the efforts that are made, the simple truth is that not enough respite care is available. If there is one service that could allow families to cope for just a little bit longer—to prevent admissions to residential care and to help keep people in their homes—it is the respite care service. We must ensure that the money that is being invested in it translates into additional help and support for carers.

There is a group of carers who have for too long lived in the shadows: young carers. Too often, those young people take on heavy burdens of responsibility far beyond their years. Only a few years ago, it was not cool for a young person to tell anybody that they were a carer. Now, with support groups emerging throughout Scotland, young carers can share their thoughts and

problems with other young people. In my constituency, there is a group of extraordinary young people who undertake daily caring tasks for brothers, sisters, mums, dads, grannies and grandpas. It is a humbling experience to talk with them and to listen to them. We must bring them out from the shadows and into the light; we must let them know how proud of them society is.

It would be remiss of me not to pay tribute to the professionals in social and health services and the care assistants throughout Scotland who, day in, day out, carry out their jobs of supporting carers not for financial remuneration—although they are paid for it—but out of dedication. Organisations such as the Princess Royal Trust for Carers, the Scottish Carers Alliance, Alzheimer Scotland and the Multiple Sclerosis Society provide much-needed information and support to people who choose to sacrifice and put the needs of others first.

Today, we have a Parliament and an Executive that will speak up for carers. As a society, we all have a responsibility to support the most vulnerable in our communities and we owe our great unsung heroes and heroines a debt. Supporting carers is not an optional extra: it should be an integral part of service delivery.

I commend the motion to the chamber and look forward to hearing the views of colleagues.

16:54

Ms Sandra White (Glasgow) (SNP): I congratulate Irene Oldfather on securing the debate and on highlighting the fact that around 116,000 people in Scotland are unpaid carers—a fact of which many people, including me, were unaware. I salute the many people who take up the role. Having spoken to folk, I know that they do not want congratulations. Sometimes, they do not even want thanks. What they want is recognition, and information that will make the role of carer less of a chore and more enjoyable.

We all know that most carers regard themselves not as carers, but as wives, husbands, partners or children. As such, they are not always in receipt of benefits, which is something that we must remember and take on board. Carers who do not receive benefits are not acknowledged by agencies that help carers. Such carers can be described as hidden carers and there are many of them throughout Scotland.

I congratulate the Executive on its carers strategy and particularly welcome the assessment of carers by local authorities. However, that assessment might not always reach the hidden carers. Various agencies have done work around the issue of carers. Irene Oldfather referred in particular to the Princess Royal Trust for Carers,

which has done a great deal of such work, including a survey that covered pharmacies, hospitals and doctors' surgeries, and speaking to people in the street. The survey threw up interesting and, occasionally, sad facts.

The survey showed that many carers do not get relevant information and are not reached by local authorities or hospitals. The help that they should receive is not always present. The survey also found that two in 10 carers had not been directed to any sources of information whatsoever. They did not know what was available to them. We should all take that fact on board.

I ask the minister to consider an information strategy for carers, particularly for the hidden carers. Some carers receive benefit. For example, the elderly woman Irene Oldfather mentioned used to be a hidden carer but then received help. If she had had information about where to go for help, she might not have had to suffer as she did for so long.

I ask the Executive to take on board the issues that were raised in the Princess Royal Trust for Carers strategy document. I hope that we will help hidden carers more and give them the information that they so desperately need and deserve.

16:57

Mary Scanlon (Highlands and Islands) (Con):

I am grateful to my ex-colleague on the Health and Community Care Committee, Irene Oldfather, for raising the issue of carers. She mentioned a lady whose son had Huntington's chorea. Before I received information recently about a similar case, I had not appreciated how difficult it is for carers when the cared-for person does want strangers coming into the house. If there is one thing that I have learned in the past four years, it is that such things put tremendous pressure on carers, because they feel that they are letting down the cared-for person.

I attended a carers' conference in the Highlands last week and was shocked to discover that there are 18,500 carers in the Highlands. I suppose my image of a carer is of an 84-year-old woman who is at home all day. What I had not appreciated is that 11,000 of the carers in the Highlands are in employment. We often forget that carers can also have jobs. We should look at that situation more widely than the carers strategy does. We should also try to achieve more tolerance, understanding and flexibility from employers for carers. If a carer has been up all night caring for someone, it is not always possible for them to make it to work. Highland Council gave a presentation that showed that, where possible, it is adapting its strategies and work practices. I commend the council for that initiative.

When I knew that I was to speak in the debate, I decided that the most important aspect of it would be respite care. Throughout the four years of the previous session, we ensured that carers and their needs were high on the agenda. We acknowledge that the Executive has an excellent carers strategy. However, as members will know, it is not strategies, initiatives or glossy documents that count, but implementation.

The most moving oral evidence that we heard in the Health and Community Care Committee—I think that my ex-colleagues will agree—was from Isobel Allan, who is a carer. If there had been a star prize for submitting evidence to a committee, it would have gone to her.

Regardless of the commitment across parties in the chamber, and regardless of the good work that we do and the bills and initiatives that we sign up to, we cannot assume that someone out there has the same commitment as we have.

I want to continue to monitor the implementation of the Mental Health (Care and Treatment) (Scotland) Act 2003 and of free personal care. Highland Council has already tried to adopt its own eligibility criteria for free personal care. We should not be so naive as to think that because we pass legislation in the Parliament and a glossy brochure is published, things will happen magically at the chalk face—they do not.

The second issue that I want to raise was mentioned by the Deputy Minister for Health and Community Care in response to a question from Wendy Alexander about the disabled. I refer to direct payments. Many carers do not know that direct payments exist. Many councils do not particularly want them to know, because direct payments give carers the power, freedom and choice to buy in appropriate services that they know are best for the cared-for person. Many councils regard direct payments as a threat to their monopoly provision of services.

Like others, I endorse the excellent work of the Princess Royal Trust for Carers. However, I could find no mention of direct payments in the documents that I examined today. When I was at a multiple sclerosis seminar last year, I mentioned the help that was being provided to carers through direct payments. No one had heard of them. We must all do more to give carers the autonomy to buy in proper health care.

My final point arises from a case that was brought to one of my surgeries in Inverness last week. It concerns mental health problems combined with drug and alcohol addiction. In the case to which I refer, the parents of a 29-year-old woman were not allowed to be told whether she turned up for appointments and did not know what medication she was receiving. They were told that

their daughter had a mental illness, but they did not know whether she attended the day centre. They wanted to help their daughter and to be given advice, rather than have to step on eggshells. This was a very sad case; eventually, the daughter became so violent that the police had to remove her from the house. Her parents wanted to help, but information was withheld from them and they were excluded from contributing to their daughter's health.

I congratulate Irene Oldfather on securing this debate and am pleased to have had another opportunity to talk about carers.

17:02

Donald Gorrie (Central Scotland) (LD): We have heard three excellent speeches from members who have real experience of this subject, know what they are talking about and care about it. I want to underline a few of the points that they have made.

Carers are probably the most humbling people whom a politician meets. In politics and other activities, one's faith in human nature is often dashed. Collectively or individually, people can behave in an extraordinarily bad way. However, the amount of unsung, unrecognised and unselfish work that carers do is astonishing. Some families remind one of the book of Job—they have problems with parents, spouses, children, housing and everything else, but they deal with it all admirably. For that reason, it is salutary for us to discuss this issue.

Carers cover the whole age range. Since their problems were brought to my attention, I, like Irene Oldfather, have been a great enthusiast for young carers. The system does not recognise them adequately. Often, schools do not know why a child is absent or that they go to sleep in class because they have been looking after a relative all night. Carers also include very elderly people looking after their spouse, whose condition is worse than theirs.

Carers provide an amazing glue that holds our society together. We must invest more in them. We are all good at making speeches favourable to carers or other worthy groups, but we are not so good at providing money and delivering it in an intelligent way. We have to have well-identified investment.

First, we have to consider carers' identification. A lot of carers do not realise that they are carers. They are like the man in a Moliere play who suddenly realised that he had been speaking prose all his life and was absolutely astonished and delighted to discover it. Carers just accept caring as a family obligation; the idea that they are carers does not occur to them. We have to

persuade them that they are carers and that it is our duty to help them to care better.

Information about what help is available is key. The whole benefits structure is created by intelligent bureaucrats who assume that everyone else reads the small print and knows about everything when in fact they do not. The systems are far too complicated and nobody knows about them, so they do not benefit. We have to identify the carers and then point them towards the facilities and support that are available.

Respite care is critical and needs specific investment. Perhaps some local authorities take carers for granted because they do not sing their own song loudly enough. Some people involved in trying to help carers do not take them seriously enough. That is why organisations such as the Princess Royal Trust for Carers are important. In our form of democracy, people get results by pushing their case collectively. The carers have a good case individually. They are excellent people who get on with the job and do not trumpet their problems enough. Organisations such as the trust are important in keeping us aware of problems so that we can respond to them.

17:07

Campbell Martin (West of Scotland) (SNP): I am grateful to Irene Oldfather for securing the debate and allowing us all to make our contribution to the on-going debate about carers. Irene and I are both from North Ayrshire, so we know that an awful lot of people there, such as health-care professionals and social workers, put an awful lot of work into supporting carers

Other members have said that carers do not recognise themselves as carers, but see themselves as doing the natural thing. They are looking after someone they love, despite the fact that that means a 100 per cent commitment and giving up their own lives, simply because they want to. That is the role that carers play, even though they do not see themselves as carers.

We all acknowledge that circumstances have improved in recent years, in no small part because of the work of the Scottish Parliament. I am aware of the work that the Health and Community Care Committee did in the first session on setting up an investigation into community care. My good friend and previous employer, Kay Ullrich, played a substantial part in that and she will be pleased to see some of the changes that were brought about by the Community Care and Health (Scotland) Act 2002. Those changes have improved the lives of many carers. Carers now have more rights and more recognition, for which I am sure they are grateful.

Everything is relative. Given the low starting point, perhaps the new reality of caring in Scotland is not quite as good as it seems when we see how the legislation translates into helping people who care for those with ill health.

Most of us accept that unless someone is involved in the caring services or the health service, they do not think about someone they love developing a degenerative illness. It is something they put to the back of their mind until it happens and they are confronted with the stark reality that the person they love is ill and will not get better and that they will have to care for them. But when it happens and people have to take on that role, they do it.

It is a natural human reaction for people to start caring 100 per cent for the person in their family or their friend who has become ill. It is when that happens that we discover the vital role that carers play and how important it is to start supporting carers.

I ask the minister to address a particular issue in his summing-up speech, because there is a point where the system breaks down. Mary Scanlon alluded to it when she said that people do not want what they perceive to be strangers in their home. It is difficult to persuade some people that they have to accept help. They say that in the future they will reach the point when they know that they need help, but they do not realise that that point has already arrived. Perhaps the minister can help me by outlining how we get round that block and get people to accept the help that exists.

I know of one such case. It is heartbreaking to see a family watch their elderly mother, who herself is ill, make herself very ill by caring for their father and not looking after her own physical well-being to the point at which the family fear that the mother will, as they put it, "go" before the father, because she has given up her life. How do we get round that block? I know that it is a difficult issue, but I would be grateful if the minister could address that point.

17:11

Mrs Nanette Milne (North East Scotland) (Con): I apologise for not being in the chamber at the start of the debate, but I did not get the message about proceedings being ahead of schedule. My comments will be brief, because the comprehensive wording of the motion covers most of what anyone might want to say about valuing carers.

I note that in the motion Irene Oldfather gives a figure of 115,675 carers in Scotland, while "The Carers' Manifesto" estimates that there are 667,000 carers.

Irene Oldfather: The figure of almost 116,000 refers to unpaid carers who undertake more than 50 hours a week of work, which is comparable to a job in the health service. There are more than 600,000 carers in Scotland who might care for 10 or 15 hours a week but not as a full-time profession, as it were.

Mrs Milne: I thank the member for that clarification. I was going to seek an explanation. I wondered whether the different figures reflected the lack of accurate knowledge about carers, but perhaps that is not the case.

Whatever the true figure is, there is certainly a large and growing body of carers in Scotland and their number will increase with time as the population gets older. Around a third of carers are over 60 years old, 19,000 are young, the majority are female and 91 per cent of them believe that their caring role adversely affects their health. There are all sorts of issues about lack of support, lack of information, lack of carers assessments and lack of access to respite, which is a particular concern. A way must be found to identify the number of carers in Scotland. "Focus on Carers and the NHS" by the Princess Royal Trust for Carers contains strategies for identifying and supporting hidden carers and must be welcomed.

My understanding is that, in England, general practitioners are asked to identify the carers on their practice list, but that does not happen routinely in Scotland. I am sure that in these days of technology it would not be too difficult for us to do that without putting an undue bureaucratic burden on already overstretched GPs. A GP register of carers would go a long way towards giving us more accurate information about the number of carers.

Once the carer population is identified, it should be much easier for local support groups to be set up throughout the country to help to address carers' needs. Their work has been inadequately recognised and has gone largely unappreciated for too long.

I thoroughly endorse the congratulations that are given in the motion to the Princess Royal Trust for Carers centres, because they give invaluable support to carers and their families and raise awareness of the largely hidden body of essential support to the many groups of people who are in need of care. They certainly deserve all the help we can give them.

17:14

John Swinburne (Central Scotland) (SSCUP): It was not my intention to speak in the debate, but it has been a privilege to listen to the compassion that has come from members on all sides of the chamber. I congratulate Irene Oldfather on securing the debate.

I will give members one little illustration, and will not take up my full time to do so. Mary contacted me recently. She was due to leave school when her mother took ill. She nursed her mother for 25 years, and then her mother died. She went out to work, but then her father took ill. She nursed him for 20 years. Then, as she reached 60 years of age, her father died. She applied for a pension, and the Government gave her one of 9p per week. She had not bought a stamp in her whole life and she did not realise that there was a facility whereby she, as a carer, could get some recognition for what she had been doing. If she had realised that, she would have been awarded a bit more of a pension.

We have to ensure that people are educated, so that they know that they should be entitled to more. Mary got only 9p a week because her father had left her £19,000. She was told to come back when she had only £8,000, and she would be put on to the minimum income guarantee of £102 a week. What way is that to thank a carer? Earlier today I was talking about means testing. That was the result of means testing for that individual. It is a very unfair case, but such cases exist. Perhaps we can do something to improve the situation.

17:16

The Deputy Minister for Health and Community Care (Mr Tom McCabe): I thank Irene Oldfather and congratulate her on securing this debate. There has been a great deal of positive discussion on this issue, both here this evening and at various other forums over the past few weeks. That is a clear demonstration of the importance that we all place on supporting carers.

The debate is timely. Just a couple of weeks ago, I was delighted to lend my support to national carers week. It gave me an opportunity to recognise the immense contribution that is made by carers and to give carers my assurance that supporting them remains high on the Executive's agenda.

Our recent debate on care homes highlighted the huge challenges that we face as we seek to ensure dignity and quality of life for our older people, and to do so in a climate of demographic change and an ever-increasing shift towards care at home. Delivering a better deal for Scotland's carers has to be a central part of the Executive's social care policies.

I firmly believe that we have already made great progress. Enormous achievements have been secured for—and by—carers over the past four years. The main catalyst behind that, as Irene Oldfather correctly identified, has been the carers strategy, which was launched in 1999. One of the strategy's key achievements has been the

introduction of significant new laws to give carers independent access to help and support. The legislation is based on the principle that carers must be treated as key partners in the provision of care, and it includes provisions that should ensure that carers are made aware of their rights, a point that has quite rightly been emphasised by Donald Gorrie and Sandra White this evening.

To be aware of their rights, people need first to be aware that they are a carer. The motion asks

“that the Scottish Executive should target resources”

to identify so-called hidden carers, or people who are not accessing social services and who may not recognise themselves as carers. Sandra White rightly raised that issue. I am happy to say that a new publicity and information programme is ongoing, and that we have placed requirements on local authorities to identify carers and to ensure that carers are supplied with all the necessary information about their rights and about the services that they can access.

As some members have already done, I should mention the excellent work that has been carried out between the Executive and the Princess Royal Trust for Carers. That has already helped identify more than 10,000 hidden carers. That is an excellent piece of work, which I endorse and encourage, both now and for the future.

As I said, the legislation places new responsibilities on local authorities to identify carers and to inform them of their rights. Mary Scanlon spoke—quite properly—about direct payments, an issue that was referred to earlier today during question time. I cannot stress too strongly that we will encourage local authorities to keep to their obligations to ensure that people are aware of direct payments and aware that they now have a far greater choice. The scheme will be extended over the coming year. I assure Mary—and the entire chamber—that we are firmly committed to ensuring that the full impact of that development is felt by carers.

Campbell Martin spoke about the requirement to monitor carers and to ensure that people are aware that they are carers, that they have rights as carers, and that there are entitlements that they should take up. Over the months to come, we will do all that we can to ensure that local authorities pick up on that agenda, actively pursue people who are involved in care, and—in as sympathetic, as caring and as professional a manner as possible—do all that they can to ensure that people access the services to which they are entitled.

We are very much aware that caring can creep up on people as a gradual change in an existing relationship. We know that the caring population is constantly changing, and we know that there are

issues over whether all carers want to be identified or offered support. That is why statutory agencies such as local authorities face significant challenges in consistently identifying carers and offering them support. We will continue to encourage them to do so and will continue to monitor the success of our encouragement.

Many carers can be picked up through early contact with primary care services—by their general practitioner in particular. Carers are far more likely to see their GP than to see a social worker. That is why we made sure that the new contract for GPs established identifying carers as an indicator of good quality practice for GPs. We are delighted that the GP profession overwhelmingly endorsed the new contract last week. Let us not underestimate the scale of that achievement. It should bring significant benefits to carers.

We are currently funding work to provide information to carers through community pharmacists. To help raise awareness and to advertise sources of support, the Executive has just distributed—as I mentioned earlier—new publicity material throughout Scotland. That is the second such campaign since the carers strategy was launched.

Today's motion asks the Executive to provide resources so that the vision underpinning the recent legislation on carers—that of carers as partners—can be realised. We are doing just that. Resources available to local authorities to support carers and provide respite care have risen from £5 million a year in 1999 to £21 million this year. By any standards, that is a huge increase in real terms. Some local authorities have used that investment to reinforce their support for carers. For instance, here in Edinburgh, resources have been targeted at supporting young carers and carers from minority ethnic groups. However, we also have to recognise candidly that some local authorities have been more effective than others in using their resources and supporting carers. I am clear that we need to improve our ability to identify and measure the outcomes for carers that are being delivered through those resources and our policies. I assure the chamber—and I especially assure carers throughout Scotland—that that work will be a high priority for the Executive in the months ahead.

I know that time is short and that my time is nearly up. I do not want to give the chamber, or carers in Scotland, the impression that we are saying that we have done enough. We have not. Clearly, there is more to do. I am looking forward to meeting carers' representatives next month to discuss their and our priorities for the next three to four years. If we can establish realistic aims and aspirations, I am confident that we can make

progress in our work to assist carers and make their quality of life better—and make the quality of life of the people whom they care for better too.

I acknowledge the point that Nanette Milne made and I have no doubt that some of the excellent points that have been made tonight will feature in our discussions with carers' representatives. I am sure that we will be able to establish the very important agenda for the next three to four years.

I hope that colleagues will agree that there is much to be positive about and that the carers strategy is stimulating real changes for the better. I warmly welcome today's debate. It is vital that the Parliament keeps carers high on its agenda. I am sure that the Executive can count on the continued support of the Parliament as we seek to deliver a better Scotland for carers. I assure the chamber that we welcome the continued scrutiny of our work to improve the quality of life for carers throughout Scotland.

Meeting closed at 17:25.

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