

# **MEETING OF THE PARLIAMENT**

Wednesday 26 October 2005

Session 2

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## **SCOTTISH MINISTERS AND DEPUTY MINISTERS**

FIRST MINISTER—Right hon Jack McConnell MSP  
DEPUTY FIRST MINISTER—Nicol Stephen MSP

### **Justice**

MINISTER FOR JUSTICE—Cathy Jamieson MSP  
DEPUTY MINISTER FOR JUSTICE—Hugh Henry MSP

### **Education and Young People**

MINISTER FOR EDUCATION AND YOUNG PEOPLE—Peter Peacock MSP  
DEPUTY MINISTER FOR EDUCATION AND YOUNG PEOPLE—Robert Brown MSP

### **Enterprise and Lifelong Learning**

MINISTER FOR ENTERPRISE AND LIFELONG LEARNING—Nicol Stephen MSP  
DEPUTY MINISTER FOR ENTERPRISE AND LIFELONG LEARNING—Allan Wilson MSP

### **Environment and Rural Development**

MINISTER FOR ENVIRONMENT AND RURAL DEVELOPMENT—Ross Finnie MSP  
DEPUTY MINISTER FOR ENVIRONMENT AND RURAL DEVELOPMENT—Rhona Brankin MSP

### **Finance and Public Service Reform**

MINISTER FOR FINANCE AND PUBLIC SERVICE REFORM—Mr Tom McCabe MSP  
DEPUTY MINISTER FOR FINANCE AND PUBLIC SERVICE REFORM—George Lyon MSP

### **Health and Community Care**

MINISTER FOR HEALTH AND COMMUNITY CARE—Mr Andy Kerr MSP  
DEPUTY MINISTER FOR HEALTH AND COMMUNITY CARE—Lewis Macdonald MSP

### **Parliamentary Business**

MINISTER FOR PARLIAMENTARY BUSINESS—Ms Margaret Curran MSP  
DEPUTY MINISTER FOR PARLIAMENTARY BUSINESS—George Lyon MSP

### **Communities**

MINISTER FOR COMMUNITIES—Malcolm Chisholm MSP  
DEPUTY MINISTER FOR COMMUNITIES—Johann Lamont MSP

### **Tourism, Culture and Sport**

MINISTER FOR TOURISM, CULTURE AND SPORT—Patricia Ferguson MSP

### **Transport and Telecommunications**

MINISTER FOR TRANSPORT AND TELECOMMUNICATIONS—Tavish Scott MSP

### **Law Officers**

LORD ADVOCATE—Colin Boyd QC  
SOLICITOR GENERAL FOR SCOTLAND—Mrs Elish Angiolini QC

## **PRESIDING OFFICERS**

PRESIDING OFFICER—Right hon George Reid MSP  
DEPUTY PRESIDING OFFICERS—Trish Godman MSP, Murray Tosh MSP

## **SCOTTISH PARLIAMENTARY CORPORATE BODY**

PRESIDING OFFICER—Right hon George Reid MSP  
MEMBERS—Mr Duncan McNeil MSP, Nora Radcliffe MSP, John Scott MSP, Mr Andrew Welsh MSP

## **PARLIAMENTARY BUREAU**

PRESIDING OFFICER—Right hon George Reid MSP  
MEMBERS—Bill Aitken MSP, Chris Ballance MSP, Ms Margaret Curran MSP, Carolyn Leckie MSP, Margo MacDonald MSP, Tricia Marwick MSP, George Lyon MSP

## COMMITTEE CONVENERS AND DEPUTY CONVENERS

<b>Committee</b>	<b>Convener</b>	<b>Deputy Convener</b>
Audit	Mr Brian Monteith	Mr Andrew Welsh
Communities	Karen Whitefield	Euan Robson
Education	Iain Smith	Lord James Douglas-Hamilton
Enterprise and Culture	Alex Neil	Christine May
Environment and Rural Development	Sarah Boyack	Mr Mark Ruskell
Equal Opportunities	Cathy Peattie	Nora Radcliffe
European and External Relations	Linda Fabiani	Irene Oldfather
Finance	Des McNulty	Mr John Swinney
Health	Roseanna Cunningham	Janis Hughes
Justice 1	Pauline McNeill	Stewart Stevenson
Justice 2	Miss Annabel Goldie	Bill Butler
Local Government and Transport	Bristow Muldoon	Bruce Crawford
Procedures	Donald Gorrie	Karen Gillon
Public Petitions	Michael McMahon	John Scott
Standards and Public Appointments	Brian Adam	
Subordinate Legislation	Dr Sylvia Jackson	Gordon Jackson

26 October 2005

## Scottish Parliament

*Wednesday 26 October 2005*

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

### Time for Reflection

**The Presiding Officer (Mr George Reid):** Good afternoon to you all. The first item, as is usual each Wednesday, is time for reflection. Our time for reflection leader today is the Rev Brian Lamb of St Patrick's church in Shotts.

**The Rev Brian Lamb (St Patrick's Church, Shotts):** Presiding Officer and members of the Scottish Parliament, as parish priest of St Patrick's, Shotts, I am privileged to lead that community in a period when we celebrate the 100<sup>th</sup> anniversary of the building of our fine church.

On the feast of St Patrick in March, Bishop Devine celebrated mass with the community. In April, 80 parishioners made a day pilgrimage to Pluscarden abbey near Elgin. In May, our garden fête was given a 1905 theme, with workers dressed up in the clothing typical of the mining community of 100 years ago. St Patrick's Primary School entertained the community with performances of songs and dance of the 20<sup>th</sup> century. We had an open day and an exhibition of parish archives.

In June, more than 1,200 people participated in our annual train trip to Ayr, led by the St Patrick's band. In July, we enjoyed a concert of sacred music offered by a French choir, and 37 parishioners went on pilgrimage to Rome for 10 days. In August, almost 200 maws, paws and weans walked 8 miles to St Athanasius' church in Carluke, a journey that their forefathers made every week before a church was built in Shotts. In September, we hired a 35m marquee and offered a children's night, inviting the children from all three primary schools in Shotts for an evening of entertainment, culminating with a grand fireworks display over the church. The following evening, Andy Cameron led a cabaret night for the adults.

Earlier this month, our opera group presented "Jesus Christ Superstar" in an almost unrecognisable church building. The sell-out audiences will long remember that night of entertainment. On the actual centenary day, 25 November, the Archbishop of Glasgow will celebrate mass with our community. In December, North Lanarkshire Council will offer a civic reception to bring our celebrations to a close.

We published a book telling the story of the building and the development of the church. We

made a DVD of the history of the parish and church and we commissioned a bronze statuette of St Patrick. To sum up, we are enjoying a busy and expensive year of celebration. We are celebrating not a building but the life of a community and we are recognising a significant milestone in that community's history.

A few months ago, Karen Whitefield MSP gave me a tour of this fine new Parliament building, a visit that I appreciated and enjoyed. The church is not a building and neither is the Scottish Parliament. My prayer is that there will be many significant milestones in the life of this community, as you exert a significant influence in moulding the present and future character of our nation.

In Matthew's gospel, we read:

"No one lights a lamp to put it under a tub; they put it on the lamp-stand where it shines for everyone in the house.

In the same way, your light must shine in the sight of men, so that, seeing your good works, they may give the praise to your Father in heaven."

## Point of Order

14:35

**Margo MacDonald (Lothians) (Ind):** On a point of order, Presiding Officer. I seek your guidance on rule 8.11, about business motions. Evidence was led this morning at the meeting of the Justice 1 Committee and Justice 2 Committee that directly concerns the debate that is taking place at Westminster at the moment. That evidence could not have been referred to at yesterday's meeting of the Parliamentary Bureau. I ask the business managers to find time to allow us to debate the issue from the perspective of this Parliament, given that our operational responsibility for policing, for example, will be directly affected by the Terrorism Bill. Is it possible, under rule 8.11, for the Minister for Parliamentary Business to add to the proposals that she will put to the Parliament this afternoon, so that we might have a debate on the matter?

**The Presiding Officer (Mr George Reid):** The minister is not with us at present, but I am sure that she will take due notice of what you have said. I thought that you were going to propose a motion without notice, but that is not the case. You were not at the bureau yesterday, Mrs MacDonald. It might have been more appropriate to raise such matters then.

**Margo MacDonald:** I certainly would have raised the matter yesterday had the evidence been given by the police yesterday, but the evidence was given to the justice committees only this morning. In the light of the fact that discussions taking place at Westminster today impact directly on the responsibility of this Parliament, without our having been consulted, it might be a good idea to discuss the matter.

**The Presiding Officer:** The minister is not with us at this point, but I am sure that the Government whips will ensure that your views are conveyed to her and I suspect that she will have a word with you thereafter.

## Non-Executive Bills Unit (Prioritisation of Workload)

**The Presiding Officer (Mr George Reid):** The next item of business is a debate on motion S2M-3411, in the name of Mr Duncan McNeil, on behalf of the Scottish Parliamentary Corporate Body, on a report on prioritisation of the non-Executive bills unit's workload.

14:37

**John Scott (Ayr) (Con):** The Scottish Parliament has established an enviable track record in considering legislation promoted by back benchers. In the Parliament's lifetime, 23 members' bills and five committee bills have been introduced. The greatest proportion of those bills make use of non-Executive bills unit resources—to date, 15 bills have received drafting assistance. That is something that we wish to maintain. Not only the number of bills but the quality of their drafting is important.

The Scottish Parliamentary Corporate Body's deliberations have led to the report that is before the Parliament today. We seek to maintain and build on the Parliament's record while upholding the rights of back benchers to bring forward their own ideas. NEBU is a unique resource, which we want to utilise for optimum advantage to the Parliament and its members. The report sets out our recommendations on the criteria that apply when NEBU provides drafting assistance for members' bills and committee bills. Those recommendations are the product of considerable deliberation involving the SPCB and others.

I intend to put the recommendations in context by describing how the prioritisation criteria have evolved, the level of work undertaken by the unit and how the SPCB reached its recommendations. Before I move on, I ask members to bear in mind when contributing to the debate the fact that all resources are finite. Once that premise is accepted, the key point is that decisions should be taken in a fair, balanced and transparent manner.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Chris Ballance's amendment states:

"one of these criteria proposes to refuse drafting support based on the potential size, scope and complexity of a Bill."

Will the member confirm to back benchers that, even if the recommendations are agreed to, they will not prevent bills from coming forward under other auspices and that help can be gained outside NEBU?

**John Scott:** Indeed. That is entirely correct. There are such opportunities and we would welcome members taking advantage of them to



make private drafting arrangements. NEBU's drafting facilities are finite.

**Mr Mark Ruskell (Mid Scotland and Fife) (Green):** Given that smaller parties, such as the Scottish Green Party, do not get policy development grants, which are offered to, for example, Mr Scott's party in Westminster, how exactly does Mr Scott think that I am to finance the bringing forward of a bill on genetic modification liability?

**John Scott:** My party—and I think that I speak on behalf of other parties—has no grants to assist us in developing policy. In that regard, we are no different from the Green party.

**Mark Ballard (Lothians) (Green):** On a point of order, Presiding Officer. Can you confirm that the Scottish Conservative and Unionist Party is in receipt of policy development grants from Westminster and that the Scottish Green Party is not?

**The Presiding Officer:** That is not a matter for me; I have no insight into such matters. If anything, it is a matter for the Conservative party.

**John Scott:** The core issue for today's debate is the method by which the SPCB prioritises NEBU's resources when demand for support exceeds the available capacity of the unit.

We acknowledge that there will always be proposals that fall on the wrong side of any line that is drawn. However, decision making is an integral part of the SPCB's duty when allocating parliamentary resources. The prioritisation criteria were developed to ensure that the decisions that are taken are, as far as is possible, rooted in evidence rather than being subjective. We want those who wish to be allocated drafting assistance to be aware of the reasons why they might be successful in accordance with set criteria. We aim to be transparent when taking those difficult decisions.

The prioritisation criteria allow proposals for members' bills to be assessed against one another. The Procedures Committee considered alternative approaches, but it did not wish to identify an alternative system of prioritisation. Any system must improve the management of the member's bill process while protecting the rights of back-bench members to initiate legislation and to have their policy proposal considered on its merits.

The Procedures Committee acknowledged that, when choices are to be made on the allocation of resources, it falls to the SPCB to make decisions using clear criteria. In that regard, and in respect of the Scottish Green Party's amendment, it would be interesting to hear what criteria the Greens propose be used, if they are suggesting that a member be assisted with any bill. It will be

interesting to hear how they square the fair-access provision that they are talking about with the fact that one major member's bill could use all the available resources, which would prevent any other member from being assisted. If they are proposing that more resources be made available, I look forward to hearing where they suggest that those resources be found.

**Karen Gillon (Clydesdale) (Lab):** There is genuine concern that the SPCB's proposals could prevent a member from bringing forward a particularly relevant piece of legislation simply because it is complex; back-bench members are genuinely concerned that the proposals will prevent them from introducing the kind of legislation that they were brought into the Parliament to enact.

**John Scott:** That is a reasonable consideration and we are intending to endeavour to be fair and utterly transparent in every situation. We will set out the criteria by which we intend to proceed.

Underpinning those criteria are two fundamental principles. First, priority should be given to committee bills over members' bills. Secondly, all members should continue to be supported by the unit in developing their policy until the final proposal is lodged. The criteria kick in when the member, having issued a consultation on their proposal and having secured the necessary 18 cross-party supporters that are required by the standing orders, seeks to have a bill drafted.

The first two criteria are straightforward. I trust that members will accept that resources should be targeted on proposals that are competent and in relation to which no other opportunity for changing the law exists. We propose that proposals must therefore be broadly within the legislative competence of the Scottish Parliament.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Who decides whether a proposal is competent? I ask because I was told initially that my Breastfeeding etc (Scotland) Bill was not competent, but when it was redrafted I was told that it was competent. I would have thought that the decision was the Presiding Officer's. A proposal could come before the Parliament thereafter.

**John Scott:** The corporate body will make the decision, as we are the purse holders for NEBU. I will be laying out further criteria and hope that the member will agree that they are reasonable.

**Karen Gillon:** Will the member give way?

**John Scott:** I really think that I should make some progress.

**Karen Gillon:** It is a point of clarification.

**John Scott:** Okay.

**Karen Gillon:** The rules on members' bills are set out in the standing orders, which were voted on by the Parliament. The first two criteria must be complied with before a member can move anywhere with their bill, so the others are red herrings, if I may say so.

**The Presiding Officer:** Mr Scott, you have three minutes.

**John Scott:** Thank you, Presiding Officer. In that case, I will move on quickly.

We recommend that proposals must be broadly within the legislative competence of the Scottish Parliament and that there should be no likelihood of legislative action on a similar subject that would afford an opportunity in the current session of the Scottish Parliament—or at Westminster or in the European Parliament—to amend the same area of law.

Other factors that should be taken into account are the size, scope and complexity of a bill, as well as the breadth of support that a proposal has attracted. NEBU can provide us with an estimate of the potential size of a member's bill by reference to other legislation on comparable issues. Scope is estimated by reference to the extent of the policy being pursued as discussed during consultation. Complexity is assessed by reference to the desired policy, to other legislation and to work in other jurisdictions. In each case, NEBU offers us information following input by its legal advisers. Size is important to the exercise. Regardless of the underlying policy, as bills become larger they become more complex to develop and draft and to take through the parliamentary process—the Mental Health (Scotland) Bill is an example. Similarly, the more strands there are to a policy, the more complex the production of a bill becomes.

Let me turn quickly to NEBU's workload. In this session, NEBU has researched or discussed 66 potential bills and 22 draft proposals have been lodged under the new procedures for members' bills. Eighteen of those proposals are at varying stages of the process: some are out to consultation, while others are ready to proceed to final proposal stage. The unit is already providing assistance to the Standards and Public Appointments Committee on the Interests of Members of the Scottish Parliament Bill and it is also providing assistance on three introduced members' bills. Another member's bill has been instructed and assistance is being provided to the Subordinate Legislation Committee on its proposed bill.

Support for those members' bills is provided on the basis that they meet the prioritisation criteria. In each case, the policy had been sufficiently developed before demand on the unit began to

exceed available capacity. Although members have until the end of September 2006 to introduce a bill in this session, it can take 12 months to develop the policy and to work with the draftsmen to produce a bill that is fit for introduction. Decisions that we make now will determine the drafting support that is available to members for the remainder of the session.

That takes me on to how we arrived at our recommendations. We took account only of the eight proposals that had completed consultation—they are the only ones that have advanced far enough for decisions to be made at this time. We recommended that two proposals—one for civic appeals and the other for a commissioner for older people—should receive NEBU's drafting assistance. Both met the criteria on competence and on the fact that there was no legislative action elsewhere and both received the required support. Neither proposal raises concerns about size, scope or complexity.

We also considered the proposal on liability for release of genetically modified organisms. That proposal raised concerns about complexity and legislative action being taken elsewhere. The combination of those factors led us to conclude that the proposed bill would be difficult and time consuming to produce and would take up a disproportionate amount of available resources. We therefore agreed that NEBU should not support that proposal. The other proposed bill to which we did not allocate resources was that on direct elections to health boards. At the time of our deliberations, the bill's proposer was in the process of gathering members' signatures and support. As proposed, the bill would have contained about 70 sections, so its size would have been a problem. If drafting assistance had been recommended for either of those proposals, NEBU would have had no scope to provide assistance for any other bills, including committee bills, for the remainder of the session.

Four members had not lodged a final proposal at the time of our deliberations.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** Will the member take an intervention?

**The Presiding Officer:** No. Mr Scott must finish quickly, Mr Crawford.

**John Scott:** Those four members had not secured the necessary support. The local government elections proposal fell because of the member's resignation. A proposal in the same terms has now been lodged by another member, although that was after our deliberations had been completed. In relation to Brian Monteith's amendment to the SPCB motion, I would simply observe that, when the SPCB considered demand on NEBU, no such proposal had been lodged. If

the member lodges a successful proposal that meets the agreed criteria, the SPCB will consider it at that time and will examine the resources that are available to assist him.

The remaining three proposals—on the right to die for the terminally ill, the tartan register and greener transport—met the criteria but had not yet secured the necessary support. We considered that it would be sensible to defer decisions on each until a successful proposal had been lodged, although we have indicated that, should those proposals secure members' support, we would be minded to allocate support to each of them, albeit that it might not be possible to complete the process in the time remaining in this session.

A key point for members to note is that NEBU support is not the only route available to back benchers. Subject to paid advocacy rules, members are free to seek external support; indeed, I note that some members have done so. I reiterate that NEBU will continue to support all members with development work on their proposals and consultations, including analysis of responses. On behalf of the SPCB, I ask that the Parliament endorses the prioritisation criteria and agrees the recommendations of the report.

I move,

That the Parliament endorses the prioritisation criteria set out in paragraphs 7 to 9 of the Scottish Parliamentary Corporate Body's 2nd Report, 2005 (Session 2): *Report on the Prioritisation of the Non-Executive Bills Unit's Workload* (SP Paper 434) and therefore agrees the recommendations in paragraph 19 of the report.

14:42

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** Some members might think that my amendment is special pleading and that this is Monteith coming along to try to make sure that his bill is put back on the list so that everything will be fine and dandy. The situation is not quite as simple as that; I would not say that what I am suggesting is special pleading at all.

When rules are made to deal with matters of priority and finite resources, it is always possible that some things might fall on the wrong side of the line. The proposal for a local government elections bill was originally made by David Mundell and fell because of his resignation when he went to another place, but I think that the SPCB would have considered it favourably had it still been able to do so. I am not going to argue against the SPCB report. I recognise that the task that was set for the SPCB was necessary and I generally accept the contents of the report. However, I will take this opportunity to raise some small points.

The first is about the criterion on the potential size, scope and complexity of a proposed

member's bill. One thing is missing from that list—it is highlighted by the proposal for a local government elections bill—and that is time sensitivity. The SPCB should give due regard to the fact that some bills will be time sensitive. The proposals for local government elections would have been one such bill, but that important consideration was not taken into account.

My proposed bill seeks to make a change that will affect the Scottish Parliament and local council elections in 2007. It cannot wait until well into 2006; to give administrators, chief executives and returning officers sufficient time to complete the task of making their arrangements, consideration of the bill must proceed fairly quickly in the next year. Although the important criterion of time sensitivity is not given consideration in the report that is before us, I ask the SPCB to consider it in future.

In response to what John Scott said, I point out that I was a supporter of David Mundell's original proposal for a local government elections bill and, indeed, worked closely with him on it. In fact, at every opportunity—in the almost certain knowledge that he would be elected to Westminster and would have to resign his seat here—we made it generally known that I would be lodging a proposal for a fresh version of his bill, which would undoubtedly fall on his resignation. Although I accept that my bill proposal did not meet the technicality of having been submitted when the SPCB discussed such matters, I point out that it was known that a further proposal for a local government elections bill would be submitted.

I listened carefully to, and was most interested in, what John Scott said and I will take advice on whether to press the amendment in my name to the vote, because the SPCB has made an attempt to meet me halfway. As I have said, the important issue is the criteria. I feel that my proposal is an example of the fact that the present criteria do not wholly cover every possible case, especially as it was known that I would be submitting my proposal for a bill.

I will close by pointing out three things. The bill for which I have made a proposal would be neither complex nor wide in scope. Under those two criteria, it should easily find favour with the SPCB. It would require only three sections and would take up one member of staff's time for only four months. It has been categorised as being straightforward.

What support does my proposal have? It was signed by 26 members, who belong to different political parties. In the consultation that was carried out on the previous proposal, significant support was obtained from the Convention of Scottish Local Authorities, Unison, 12 local

authorities, the Association of Electoral Administrators and the Society of Local Authority Lawyers and Administrators in Scotland. That will be explained to the Local Government and Transport Committee so that my proposed bill may receive consent to be introduced. Support for it exists; it is not designed to give preference to a particular party.

I know that there are divisions of views in all parties, including mine, on whether the council and parliamentary elections should be separated. I will not rehearse the opposing arguments, as that is a debate for another time. I simply argue that it is important to consider the time sensitivity of bill proposals when they are submitted, point out that my proposal has a significant degree of support and is lacking in complexity and scope, and ask the SPCB to take those matters into account.

I move amendment S2M-3411.2, to insert at end:

“with the addition, subject to committee approval of the statement of reasons that further consultation is not necessary and once a successful proposal is lodged, of the Local Government Elections (Scotland) Bill, given that it received 26 signatures of support when previously lodged, is time-sensitive and would be a small piece of legislation requiring only three sections and one member of staff to assist with its progress.”

14:58

**Chris Ballance (South of Scotland) (Green):** The SPCB’s proposal severely undermines the right of back benchers to introduce legislation. My objection is to the criteria of “size, scope and complexity”. The implication is that, if a proposed bill is short, simple and narrow, it is appropriate for a back bencher to seek to introduce it. In recommendation 19 of the SPCB’s report, we are asked to agree that certain named bills are appropriate to receive support and that any other proposals for a bill will be ruled ineligible for Scottish Parliament support, regardless of their importance, the assistance that is required with them or their relevance.

If we vote for the motion, we will be voting to support a bill that will create a register of tartans while denying support to a bill that seeks to democratise the governance of the national health service in Scotland. Which is more important? Which issue would most people in Scotland say was more important? Which issue is of more interest to the Scottish people? Which issue should the Scottish Parliament be discussing? If we vote for the motion, would that be a grown-up decision by a grown-up Parliament?

A dangerous precedent is being set. The report proposes the introduction of a new stage: a vote by the Parliament on whether a proposal receives the support of NEBU. We will be asked to rate one

bill against another, as Brian Monteith’s amendment does. That is horse trading.

**Bruce Crawford:** Some back benchers will have sympathy with some of the stuff that Chris Ballance is saying. However, his amendment includes no proposal for how he would deal with the difficult decisions about resources, size and complexity. Should that be done by means of a committee of back benchers, the Procedures Committee, the bureau or the SPCB? Instead of simply coming to the chamber today and complaining, it would have been more useful if Chris Ballance had proposed a solution that members could have signed up to—that would have been constructive.

**Chris Ballance:** I will refer to the possible alternatives later. In my amendment, I ask the SPCB to bring alternatives to the chamber. The SPCB has placed before the chamber one take-it-or-leave-it solution; I am asking it to reconsider its recommendations.

Under its scheme, the first consideration for back benchers would not be the question, “Is this my top priority?”. Unless a back bencher has independent, private financial backing, their first consideration would be the simple question, “Is my idea small enough for the Scottish Parliament?”.

A more fundamental question is involved, however: the level of erosion of the power of back benchers that the Scottish Parliament finds acceptable. Surely the question should be one of the degree of power sharing between the Government and ordinary members. Canon Kenyon Wright, who was chair of the Scottish Constitutional Convention, said of the SPCB’s report:

“The parliament’s founding principles of sharing power and participation are at stake here.”

The Scottish Council for Voluntary Organisations has also expressed its concerns; it has asked MSPs to support the amendment in my name.

It is important that back benchers are able to introduce bills. Would the Smoking, Health and Social Care (Scotland) Bill have come before the Parliament if not for Stewart Maxwell’s work in the previous session? Back-bench bills flag up issues and raise debates.

The recommendations are unnecessary. In the past, staff have been drafted into NEBU in order to ensure that a committee bill gets through; as happened with the Commissioner for Children and Young People (Scotland) Bill. Has the SPCB considered drafting in staff to deal with the two committee bills that are currently under consideration? We do not know the answer to that question; the report says nothing about the alternatives. Staff numbers in the private bills unit

have doubled this year; the resources for that were found without question or reference to the Parliament. Why therefore are resources for back benchers being denied? Only 1.3 per cent of the SPCB's total staffing budget goes to NEBU—that is the extent of the resource that goes to supporting back-bench bills.

There are alternatives. As in other instances, we could increase resources to NEBU. We could set higher hurdles, which is the option that the Procedures Committee selected. We should look further at that option; indeed, we could consider the setting of further hurdles or objective criteria that do not depend on the judgment of parliamentary staff on the size and scope of bills.

The changes are fundamental; they will affect all back benchers. We are being asked to make them by way of a report that offers, as the famous lady did, no alternative. The report is inaccurate: it says that all bills for which consultation was completed by this year's summer solstice were considered, but it forgets—at least to my knowledge—the proposed home energy efficiency targets bill, for which the consultation was completed in early June.

My amendment calls on the SPCB to review its recommendations. That would be the democratic way forward to a proper debate.

I move amendment S2M-3411.1, to leave out from “endorses” to end and insert:

“notes the prioritisation criteria set out in paragraphs 7 to 9 of the Scottish Parliamentary Corporate Body's (SPCB) 2nd Report, 2005 (Session 2): *Report on the Prioritisation of the Non-Executive Bills Unit's Workload* (SP Paper 434); notes with concern that one of these criteria proposes to refuse drafting support based on ‘the potential size, scope and complexity of a Bill’; further notes with concern the implication that Members' Bills must therefore be small, narrow in scope and simple in order to receive drafting support from the Parliament; believes that this is the wrong approach to the question of resources within the Non-Executive Bills Unit and that it undermines the founding principles of the Scottish Parliament, in particular that of power sharing, and calls on the SPCB to review its recommendations in order to ensure that all Bill proposals receive fair access to drafting support.”

15:04

**Alasdair Morgan (South of Scotland) (SNP):** I will first set out the Scottish National Party position, which is that we have not taken a position. Given that the debate is about members' bills, we think that members should be able to make their own decisions. The SNP will have a free vote on the motion tonight. Members will hear no consistency in the speeches from the SNP benches on this occasion—some members may say that that is not at all unusual.

We should recognise that there are no easy solutions to the matter, which is one of the

reasons why the Procedures Committee could not come up with a recommendation, or perhaps I should say that there is no easy solution that would command cross-party support in the chamber.

Despite my natural inclination, Brian Monteith's amendment finds some favour with me. My concern is that we are dealing with a corporate body report dated 13 October and Brian Monteith's proposal for his draft bill was lodged on 29 September. I know that the bulk of the report was written earlier, but it is rather unfortunate that when the report talks about bills that are currently on the table, it ignores Brian Monteith's bill altogether because the bulk of the work was done before his bill was lodged. There is a case for, at the very least, considering Brian's bill along with the other bills listed in paragraph 19 of the report. I will be interested to hear what other members say about that before I decide how to vote this evening.

There are and always will be limited resources for members' bills. Chris Ballance spoke about the resources that are allocated to the private bills unit. I think that I am right in saying that those resources can be recouped from the promoters of private bills because they are effectively charged for the consideration of their bill. That does not apply to members' bills.

To say that we totally ignore resource implications in preparing any bill flies in the face of reality. Given that there are limited resources, somebody has to make a decision about priorities. There are various possible decisions, but they all have drawbacks.

The interesting issue of the competence of a proposed bill was mentioned. We need more explanation of that than we got from John Scott, because a genuine difficulty arises. The Presiding Officer can rule on the competence of a bill when he has the entire bill in front of him, but the matter is not nearly so clear when we deal simply with a proposal that might run to one or two sentences. It is easy to see why Elaine Smith had a problem with the initial incarnation of the proposal for her bill. Again, it is easy enough to see the problem, but are we saying that we should make no judgment at all? Should we deal with any proposal, even though it is as clear as night from day that a conflicted proposal will be outwith the competence of this Parliament? Clearly not, so we have to come up with a mechanism.

There has been far too much hype about the proposal. Canon Kenyon Wright almost implied that we are facing the end of democracy in this Parliament when he said:

“The parliament's founding principles of sharing power and participation are at stake here.”

I think not. The resolution proposed in the motion does not enshrine the priorities set out in the SPCB report for all time; it is simply a method for getting on with it at the moment and the priorities can easily be changed.

**Chris Ballance:** Quite apart from the fact that Canon Kenyon Wright has immense stature as the former chair of the Scottish Constitutional Convention, does the member accept that the priorities set a precedent that is entirely new?

**Alasdair Morgan:** I am not aware of any parliamentary rule that one decision by the corporate body sets any kind of precedent—particularly not a binding precedent—on the corporate body or the Parliament, which can take any other contrary decision at any further stage. All we have to do is to come up with a suggestion and then agree to it—that is the precise problem.

In that connection, it is interesting that the Greens do not come up with any answer—they say that there is no alternative, but I urge them to go back and think about it again. The point is that we need to make a decision now.

Chris Ballance said that the SPCB approach severely undermines the right of back benchers to propose legislation. No, it does not. The alternative is that we come up with a position that any back bencher can claim unlimited resources to develop any proposal that takes their fancy regardless of its chances of ever going anywhere, regardless of how relevant it is to the people of Scotland.

I do not believe that we have reached the final position; it is clearly a pro tem position. It gives us a way of getting on with the current proposals. We must come up with a better and more generally acceptable and manageable proposal that the people of Scotland can afford. After all, they will have to pay for our extravagances in this chamber if we decide to indulge ourselves and allow members to introduce any proposal that takes their fancy. I hope that the business managers can agree a way of taking forward the process of finding a better, final method of dealing with these matters.

15:10

**Nora Radcliffe (Gordon) (LD):** I felt like shouting out “Rubbish!” when I heard Chris Ballance’s first sentence, but I was afraid of being thrown out of the chamber. I must point out that the bill on elected health boards is set against not one, but five other bills—and possibly more, if resources stretch a bit further than expected. Furthermore, on NEBU’s finite resources, we must bear it in mind that there is a drafting resource. We cannot simply go down to the job centre and pick up people with experience of drafting bills. There

is a bit of a bottleneck in that respect. We should also remember that there are limits on committee and parliamentary time.

This exercise in no way, shape or form seeks to undermine the Parliament’s founding principles. The non-Executive bills unit is unique in the range of support that it offers MSPs in drafting legislation. No other Parliament has an equivalent. Moreover, there is no intention of discriminating between MSPs from one party or another; in this game, we are all equal.

However, all resources are finite and, if demand exceeds supply, we should use objective criteria to apportion them. In the Scottish Parliament’s first session, the SPCB agreed a set of criteria in readiness for such a scenario and to ensure that decisions were taken in a fair, balanced and transparent manner. Indeed, in that first session, we were able to accommodate every members’ bill that was introduced.

Because the volume of MSPs’ bills has increased in this session, the thorny issue of prioritisation has had to be reconsidered, not only by the SPCB but by the Procedures Committee, which has reached the inevitable conclusion that at some point someone has make a decision and that the SPCB has to discharge that responsibility.

**Chris Ballance:** The number of members’ bills has not increased. Up to now, there have been around 30 proposals, which have led to the drafting of five bills. That is very similar to the situation a few years ago.

**Nora Radcliffe:** My reading of the figures is somewhat different, but I will not go into that now. I will check my information and apologise if I am wrong, but my impression is that the volume—and potential volume—of members’ bills is increasing greatly.

All members will continue to be given support to develop policy up to the lodging of the final proposal. Thereafter, in principle, committee bills, which come from a cross-party parliamentary body, would be given priority over members’ bills. That is only fair. The next two filters centre on whether the matter is competent and *intra vires* and whether there is no other opportunity to change the existing law. Only at that point will two further criteria for informing decision making come into play. First, the bill’s size, complexity and scope will be evaluated by NEBU. We have agreed that such an evaluation will be fair, objective and authoritative.

**Sarah Boyack (Edinburgh Central) (Lab):** It would be quite helpful to find out which members’ bills would pass the complexity test and which would fail. After all, we are all trying to work out which bills will be very complex and which are quite straightforward. Although we do not want to

have massive bills, we also do not want to be forced to introduce one-liners. How do we strike that balance? What criteria will NEBU use to make that decision?

**Nora Radcliffe:** That is partly addressed in the report. Indeed, I think that I am just about to address the point myself.

The second further criterion is the level and breadth of support that the proposed bill commands. I maintain that both criteria are fair and reasonable.

I emphatically deny that, in the words of Chris Ballance's amendment,

"one of these criteria proposes to refuse drafting support based on 'the potential size, scope and complexity of a Bill'".

We propose that bills that compete for drafting support will be evaluated against each other. It might well be that the merit of a complex bill that commands wide support will be judged greater than the collective merit of a number of smaller bills competing with it.

That is an important point that the Green amendment sidelines. It must be realised that we will evaluate bills against one another. That will be nothing to do with the size, scope and complexity of a bill per se but will concern whether a bill is considered to be more important than other bills that it could displace. That is a balancing act and a grey area, but the fact that we will try to operate under the criteria that have been outlined is helpful.

It should also be remembered that members can seek drafting support from sources other than the non-Executive bills unit. I suggest that other bills could join the queue—if I may phrase it in that way—including Brian Monteith's proposed bill. He made a reasonable point about time sensitivity, but it is unfortunate that he trumped the argument for his bill by telling us that it was foreseen that David Mundell's bill might fall if he were elected to Westminster. That situation could have been avoided. If people were keen to introduce that bill, somebody else could have proposed it in the first place.

I invite the Parliament to recognise the thought and consideration that have informed the recommendations in the SPCB's report, to support the motion and to reject both amendments.

**The Deputy Presiding Officer (Trish Godman):** We move to the open debate. I call Rob Gibson, who is to be followed by Karen Gillon.

15:16

**Rob Gibson (Highlands and Islands) (SNP):** I beg your pardon, Presiding Officer; I think that I am supposed to close for the SNP.

**The Deputy Presiding Officer:** I do not have that information.

**Rob Gibson:** Okay—very good.

The debate ought to be about ambition. The Parliament's problem is that our ambition to include back benchers in debates and to allow them to create law should be increasing, not reducing. As my colleague Alasdair Morgan said, we face the problem of dealing with the situation pro tem. People will lose out in the 18 months until the next election. Some people's bills might well be more complex than others that have been adopted, but they might be more important. The problem of weighing up such matters has not been resolved. The problem for debate is that we need agreement on how to resolve the complexities.

As I am one of the people who have been in the middle of work on the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill and the Edinburgh Tram (Line One) Bill, I know how much of NEBU's resource private bills have taken up. The Government has proposed to change the private bill procedure to that which is followed at Westminster under the Transport and Works Act 1992. I hope and understand that that will free up some NEBU support to back benchers but, at present, NEBU does not have enough people to support all the proposed bills. In addition, we do not have enough time in Parliament to deal with the bills. We do not meet often enough or have enough committees or staff for them.

The last thing that we want is to say that Scotland needs more legislators, more parliamentary staff and more civil servants, but the logic of the debate is that that is true. If we want to catch up and to do the business that the Parliament hopes to conduct to influence the life of Scotland, such issues must be taken on board. Duncan McNeil's proposals show that in a microcosm.

I support Alasdair Morgan's comment that we must agree on how to proceed. I will reflect on a proposal that I lodged a year or so ago for a bill on the succession to land. I had to await publication of the Government's Family Law (Scotland) Bill to find out whether that bill would cover the aspect of family law that my proposed bill dealt with. That meant that if my proposal was to be considered, it would be dealt with late in the parliamentary session. As Brian Monteith said, when issues are time sensitive because they relate to an event that will happen soon—as in his case—or when they cannot be dealt with until later in the session—as in my case—the problem is that the current

procedure puts people at a great disadvantage in having those proposals taken seriously. That must be dealt with. Urgent matters come up, but there are also issues on which it is necessary to await what the Government does. In this case the Executive's bill did not deal with the matter that I am concerned about—the succession to land.

I will deal with the issue of size, complexity and scope. It is true that if members were trying to weigh matters up in relation to the number of staff that we have, they might decide that it is more important to have a GM bill than one for tartan registration. It might be much easier to pass the tartan registration bill, but is it needed in a hurry? My question is: can we rely on the SPCB to make decisions for the whole of the Parliament that allow such priorities to be taken on board? Somewhere in the back of my mind I believe that there is fair play; but on the other hand, I sometimes wonder.

Alasdair Morgan spoke about the mechanism for competence. The crux of the debate is whether we can agree on that. Since we are only learning how to go about the business of back-benchers' legislation and so on, I guess that it will take some time to work out. In six years we have tried to create a mechanism that allows many more members than almost any other Parliament to bring legislation forward from the back benches. That is important for the Parliament because it suggests that we are sensitive to the potential for legislation from the back benches. We should welcome that, laud it and be thankful that it has been possible to fit those bills in.

If we cannot find a way to get more staff for NEBU and more time for debates on such legislation it will be almost impossible for more back-bench bills to be brought forward. The Parliament must face up to that. I hope that the debate leads to a decision. The pro tem approach recommended by the SPCB's report is welcome, but it is not the end of the story.

15:22

**Karen Gillon (Clydesdale) (Lab):** I did not intend to speak in the debate, but several comments have brought me to my feet.

I will refer to a few issues and seek comments from whoever responds on behalf of the SPCB. I set out my stall: at this point I would not vote for anything that is on the table.

I have been a member of the Procedures Committee for the past two and a half years. I have been through this process and I understand how difficult it has been for the committee. The committee brought a report to the Parliament. It specifically said that the SPCB should bring to Parliament a set of criteria on which the

Parliament should vote. If that was all that the SPCB was doing today I would be happy to support that, but we are agreeing to a set of criteria and voting for the bills that meet that criteria before we have agreed to the criteria. That is where my slight confusion about the role of the SPCB comes from. It should be for the Parliament to determine the criteria first and then the SPCB could assess the bills that are up for discussion on the basis of the criteria that have been agreed by Parliament.

**Bruce Crawford:** Karen Gillon and I worked together on this matter on the Procedures Committee. Is there a need for the SPCB to be flexible in applying the rules of size and complexity? Although a bill may be very large there may not be many bills on the stocks, so it may be able to get through the gate and be discussed in Parliament. Considerable flexibility and understanding must be shown by the SPCB if it is to take on this role.

**Karen Gillon:** Absolutely. The criteria before us are potentially not sufficiently clear or transparent to ensure that that would happen.

I will examine a couple of issues in the SPCB's report. The first relates to the first bullet point on page 3. The paragraph slightly misleads Parliament because MSPs do not have the right to amend Westminster or European legislation, as it suggests that we do. The report goes further than the rules of this Parliament, which say that the Executive must give its notice within one month of the lodging of a bill proposal. The SPCB's report has no reference to a time limit. I would be grateful if the SPCB could clarify that. Obviously, I believe that the rules of the Parliament take precedence and that the two things should marry.

The second issue is complexity. The difficulty with the suggested process is that there will always be special pleading from members. We have heard that during the debate and I will continue in the same theme, because I have an interest in a proposed bill on corporate culpable homicide. The Executive is considering a report from an expert working group on the bill, which I cannot go into. I guess that it would be a complex process to enact the bill, but I believe that it is a necessary piece of legislation. However, I am concerned that, if the Executive does not believe that the bill should be a priority, the SPCB's proposed rules on complexity and its citing of the bills that would be ruled out would not allow me to present the bill to Parliament.

Nora Radcliffe said that the SPCB would consider all the bills. However, I do not believe that the criteria are sufficiently clear and transparent, which means that the SPCB is left to make a subjective judgment on the bills that are before it. I would prefer a more open and



transparent process, because the SPCB is not open to all members.

**Mike Rumbles:** Karen Gillon said that the SPCB's criteria would prevent her from presenting her proposed bill to Parliament. However, in other places, such as Westminster, no special help is given to back benchers for their bills. Could she not still present her proposal to Parliament?

**Karen Gillon:** I could, but I would prefer to present the bill independent of any outside interests and so ensure that no particular aspect of the proposal was influencing me. That is why I think that the Scottish Parliament's procedures are special. They provide drafting expertise to allow those members who do not have the support of lobbying organisations with money to produce a bill that is suitable for the Parliament to enact. I do not think that members should be able to present more than one bill, but the Procedures Committee could not reach consensus on that. Being allowed to present only one bill would significantly cut down the number of bills that NEBU and the Parliament must face.

I seek views and reassurances from the SPCB on the issues of clarity and transparency and I want to know why it did not seek Parliament's approval of the criteria before it sought to prioritise bills.

15:28

**Donald Gorrie (Central Scotland) (LD):** First, I am speaking purely in a personal capacity and not for the Liberal Democrats. I am not terribly clear whether they have a party line on this issue, but I do not adhere to it. Secondly, I am the recently arrived convener of the Procedures Committee, but I do not speak for it either.

It is not clear to me whether the vital wording in paragraph 8 of the SPCB report on

"the potential size, scope and complexity of a Bill"

applies as a sort of universal declaration now and for ever, or whether it applies only at the moment as we get a little bit towards the next election. To my mind, there is a difference. I fully accept that it is sensible to run Parliament's affairs in such a way that we do not have lots of half-done bills when it comes to the next election. We want to concentrate on getting through whatever bills there are, whether important or trivial. I would accept a statement that said something to the effect that we would try to prioritise at the present time in a certain way.

Paragraph 8 also talks about factors that need to be

"taken into account where demand exceeds capacity".

However, in all human activities everywhere, demand always exceeds capacity. Therefore, with

all due respect, I think that that remark is rather pointless. Further, I would not accept what is said about the size, scope and complexity of bills as being a general statement of principle for ever. That is an endeavour to influence the type of bills that members introduce.

The other point that I want to highlight is made higher up on the same page. The report states:

"there should be no likelihood of legislative action on a similar subject matter ... within the current session in the Scottish Parliament or at Westminster or Europe in the same area of law."

I tried to pursue two member's bills, both of which were shafted by the Executive. One of them was shafted quite intelligently. The Executive appointed Sheriff Nicholson to run a committee on alcohol, licensing and so on, which has produced a lot of sensible propositions, most of which would have been in my proposed bill.

The response to my other bill was a complete sham. The Executive set up a non-existent committee, allegedly to consider producing legislation on crimes motivated by religious hatred. The whole thing was a total disaster. It was rescued by Jack McConnell, who came out very strongly on the issue. After that, effective action was taken. As a member of one party, I am always amused and interested by the internal mechanisms of other parties, which I do not understand. Certainly, Jack McConnell has a great deal of clout in the Labour Party. My experience in this area is bad, so I do not necessarily accept claims by the Executive that it may do something about an issue in the future.

**Nora Radcliffe:** Does the member agree that the outcomes were not bad and that he got what he wanted, even if by a different route?

**Donald Gorrie:** The second proposal was rescued purely by chance. My experience provided me with an insight into the complete dishonesty of the Government machine, which was even worse than I had ever imagined it to be—and that is saying quite a lot. I am concerned about the provision that would prevent a bill from being prioritised if the Executive said that it might be able to do something about the issue concerned. I would like the proponents of the report to say whether paragraph 8 will apply only now, when time is short before an election, or whether it will apply in the future for ever. I could not accept the latter.

15:32

**Frances Curran (West of Scotland) (SSP):** When the Parliament was established, it was trumpeted that it would be a different Parliament—a people's Parliament. Recently the garden lobby has been full of photographs of the campaigning

that preceded the establishment of the Parliament. They show people on the streets, people at a caravan and others taking part in efforts to secure the Parliament. The Parliament was to be different. It was to be more relevant. Westminster was the ivory towers, but we were going to do things differently. We were going to engage more with the Scottish people.

Nora Radcliffe says that the ability of back benchers to introduce legislative proposals with the support of NEBU is a resource that no other Parliament has. That is great. One of our problems is that the ideal with which we started of every back bencher having the right to introduce a bill is being eroded—not just by the proposal that we are debating but by a number of proposals. However, we are members of a Parliament that is only six years old.

Previously, NEBU did not exist. When we were first elected and back benchers were given the right to introduce legislation, it was an evolving process. The Parliament tried to enable back benchers to exercise their right by creating NEBU. As part of the evolving process to which I have referred, NEBU's staff was increased. However, in the six years since the Parliament was established, the corporate body has made it increasingly difficult for back benchers to introduce bills. First, the required number of signatories was increased—now 18 are needed. Secondly, it is no longer possible to lodge a bill proposal unless lengthy consultation has been undertaken. Now the Parliament as a whole is to decide which bills will be prioritised, on the basis of resources. If we agree that back benchers in this new Parliament have the right to introduce legislation, surely we need the political will to work out how that should be accommodated.

In relation to my proposed free school meals bill, I have had support from NEBU and been over all the hurdles. However, because of the rule changes, I now have to get signatories for the proposal for the fourth time.

**Bruce Crawford:** I do not think for a moment that the corporate body is whiter than white; in fact, seeing some of the members who are on it, I know for a fact that that is not the case. However, it is a bit unfair to criticise the corporate body for something that is not its responsibility. Most of the issues that Frances Curran has talked about emanate from Procedures Committee decisions. If she is going to have a go at somebody, she should have a go at the right target. If she wants a chance to do so, she should come along to a Procedures Committee meeting, as the Scottish Socialist Party has been invited to do, and make a contribution.

**Frances Curran:** I take the point about the Procedures Committee, but the whole Parliament

has to vote on the issues and there is a built-in Government majority in the Parliament. Therefore, the issue is about the political will on whether we have the right to introduce bills.

The issue is also about innovation and an aspect of the Parliament that is not Government legislation. Many members' bills are innovative—regardless of the party from which the members come—and are linked to local people and campaigns. The Breastfeeding etc (Scotland) Bill and Stewart Maxwell's Prohibition of Smoking in Regulated Areas (Scotland) Bill ended up as Government legislation. I would be delighted if the Executive said tomorrow that it was going to take over my proposal for a free school meals bill. The system is about pushing for legislation to make changes.

**Sarah Boyack:** Will the member take an intervention?

**Frances Curran:** I have already taken one and I have hardly any time.

The Protection of Wild Mammals (Scotland) Bill and the Abolition of Poindings and Warrant Sales Bill created debate out there among ordinary people. Many initiatives and proposals, including Karen Gillon's, have come from experience out there and from talking to ordinary people. Therefore, the idea that members have to find backing from trade unions, voluntary organisations, big business or other businesses defeats the purpose. Members need to get support from such organisations to get a bill through, when they should be representing ordinary people who raise issues with them.

Given that there are 108 back benchers and numerous committees that can introduce bills, is it fair that there are only six members of NEBU? I do not see any proposals about what it would cost to double the size of NEBU or to increase it temporarily. The proposals will not fulfil the aims of the Parliament. The issue is about political will. The corporate body should give us the facts and figures. Its only proposal is to cut back on the number of members' bills—it has not produced any other proposal. I agree with Chris Ballance that we need proposals with costings so that we can make an informed decision.

One of the biggest problems that the Parliament has is connecting with ordinary people. During a recent visit to a school in Clydebank with Murray Tosh, Des McNulty and others—we all do such visits on Fridays—I asked the pupils to name me one proposal that the Parliament has put through that has affected their lives. They were struggling. When we began to mention the proposals that had been put through that had affected their lives and which they knew about, the ones that they identified with and were interested in were

members' bills such as the Protection of Wild Mammals (Scotland) Bill. The big issue is connection with the people. Most people whom we go out with at the weekend do not have a clue about what the Parliament discusses. When we go to the pub with our pals or family, they have not got a clue. Is it relevant?

Members' bills are a conduit for the Parliament to achieve relevancy to lots of community campaigns, voluntary organisations and ordinary people. We should be increasing resources for that process. The Government parties should accept that and do the Parliament a favour, rather than turn it into a junior version of Westminster.

15:39

**John Swinburne (Central Scotland) (SSCUP):**

In the past couple of days, I went from sheer anger to sympathy when I spent a couple of hours researching the Procedures Committee's sixth report of 2004. The issues took me away back to 2000. The complexity of the committee's investigations and findings must be commended to a degree. I do not agree with all the findings—I do not suppose that anyone would—but the committee considered all or most of the relevant issues that were before it. The report is tiring reading, so it must have been tiring work. The report has a number of recommendations.

A year or so ago, I produced a proposal to do away with the selling of people's homes to pay for their residential care. I hope to lodge a bill to that effect. I have no axe to grind with the corporate body and I have nothing but praise for NEBU; David Cullum did a marvellous job in guiding us.

I am glad to be on the Equal Opportunities Committee and not the Procedures Committee because the latter does a mind-boggling amount of work. However, I have to take a step back and ask myself, "What criteria have I missed?" The Greens must think that about 14 acres of rainforest are destroyed to allow for the paperwork that comes through the Parliament. I learned only three weeks ago that my bill had no chance of progressing. I was probably told that in the small print somewhere along the line, but it did not reach me. If the Procedures Committee has the temerity to terminate a bill or to say that it will probably not succeed, the very least that that committee should do is to send a little memo to the member who lodged the bill to clarify the situation.

**Karen Gillon:** Which member of the Procedures Committee told Mr Swinburne that his bill had no chance of success?

**John Swinburne:** I have no idea whatever. All I can say is that I found that out three weeks ago. When something went through on the nod in the Parliament, I made an inquiry and was told quite

sincerely, "You'll be all right, your bill's in the pipeline." I am standing on my feet here because I want my bill to continue in the pipeline.

Would my bill affect many people? A total of 667,000 pensioners are worrying themselves marginally or deeply about whether their house could be sold to pay for their residential care. No Government has any right to put worry on pensioners, of all people. My bill would take that worry away. Only 4 per cent of pensioners find themselves in that unfortunate position, but the other 96 per cent worry about it to a small or a great extent. What right has this legislative body to impose worry on people who have served their country well all their working lives, and who have bought a house and then found out that the house could be sold from under them to pay for their care? We have been told by the Procedures Committee that for any member's bill to succeed the member must be seen to be putting in some of their time. We have researched the issue and tried to get information for two and a half years. One of the reasons why my bill is not further down the line is that when we tried to get facts and figures from the councils, the reply was, "This information is not held centrally."

**Karen Gillon:** It might be helpful—or unhelpful—but the rules of the Parliament say that a member can lodge a draft bill in this session until September 2006. The question that Mr Swinburne may have been confronted with is whether he would get support from NEBU to draft his bill.

**John Swinburne:** I realise that, but I got the impression that not only was my bill kicked into the long grass, it was completely off the radar. There is no mention of my bill in the excellent document that we are discussing today. I have put my bill out for consultation and have been told by NEBU that it cannot consider it for six weeks. It will then take NEBU six weeks to go through the consultation. I appreciate NEBU's problems, but at the point that I lodge my bill as a final proposal I will have to look for support from five members. The goalposts have been moved. I had 13 signatures, including my own, and I had the support of members of five parties. I now need a few more signatures. I hope that I will be able to get another five signatures for this very good bit of legislation. The bill can be tweaked in any way, as long as people stop being put into homes only to have a social worker come to their bedside to help them to sell their house to pay for their care. We should be ashamed of ourselves for allowing that to happen.

15:45

**Alex Johnstone (North East Scotland) (Con):** One reason why I went out in 1997 and voted against the creation of the Parliament and then stood for election to become a member of it is that

I believe in democracy, even when I am on the losing side. When I arrived here and discovered to my horror that the Conservatives were not in a position to form an Administration, I was again disappointed, but I still kept my faith in democracy. The Parliament is about democracy. There are minor parties in it that like to shout about democracy and I thought that I would open my speech by doing so too for a wee while.

We must remember that the way in which we serve democracy in the Parliament should reflect the views of the electorate. I accept that the people have spoken, the bounders—I use that term for the benefit of the more sensitive among us—and that we must cope with what has been delivered to us. We must remember that they expressed their views and elected a chamber with different-sized parties whose representation reflects their level of support on the day of the election. The people have, of course, spoken in another election since the first election in 1999. We must also remember that, in order to serve democracy, the Parliament must do its job and give the largest number of those who have been elected the opportunity to express their views. As a result, much of the time that members spend in here will be devoted to Executive business.

The non-Executive bills unit is a clever innovation that assists those who are not in the Executive with proposed legislation. We must remember that the unit is not a specific attempt to support minor parties or individuals who have an axe to grind. Back benchers around the chamber deserve a share of the responsibility. Therefore, if we accept that the Parliament's primary job is to enable the Executive to carry out its business and to enable those of us in opposition to try to shoot that business down, and that there are back benchers around the chamber who deserve time to deal with non-Executive business, it must be accepted that finite resources are available to deal with that part of our business.

**Mr Ruskell:** The member is talking about finite resources. Does he not realise that only 1.3 per cent of the SPCB's budget is spent on supporting members' bills? Five members of staff are involved. Can the number of staff not be upped to seven, eight or nine?

**Alex Johnstone:** That was something of an aside, but I will deal with the member's point. We could choose to make the budget as big as we want to make it, undermine all the other activities that are funded by the SPCB and devote huge resources to the non-Executive bills unit so that members of the Green party can make their sometimes complex and interesting proposals for legislation, but would that be democratic? We must take democracy into account and ensure that resources are allocated to reflect how people have voted in elections.

The situation is difficult to deal with and there are difficult decisions to make. In some Parliaments—at Westminster, for example—there is simply a ballot. If a member's name comes out of the ballot, they can invent a piece of legislation and try to promote it. That system is not as fair as a system that devotes a set of criteria to selecting who should receive access to finite resources.

To sum up what I have said, the proposal that we are discussing is not perfect and difficulties are involved. However, by setting a list of criteria—which may not be ideal but which can be used to judge one proposal against another—we will have the opportunity to ensure that proposed legislation is considered initially and can be furthered through the non-Executive bills unit's resources if that is thought to be appropriate.

Before I stop speaking, it is important to mention Brian Monteith's amendment, which supports his local government elections (Scotland) bill. As the amendment says, the proposals are time sensitive. I agree with him that time sensitivity needs to be taken into account, because there will be proposed bills that are appropriate at a particular time, and that might miss the boat and not achieve the great deal of good that they could achieve if they were given the opportunity to proceed.

**Chris Ballance:** Will the member take an intervention?

**The Deputy Presiding Officer:** No, he is just finishing.

**Alex Johnstone:** I believe that Brian Monteith's proposals under his local government elections (Scotland) bill are very important. It is important that we divide the two elections so that the Scottish Parliament and local elections take place on different days. Because we have two electoral systems, it is essential that we deal with the two elections separately. Given the procedure and the fact that he appears to have missed the boat, it seems that we might not be able to deal with the matter through that bill. For that reason, I remain fully supportive of his amendment. Even if we do not find broader support for it, I hope that we hear some favourable comments in the closing speeches. I will be supporting the motion in the name of Duncan McNeil.

15:51

**Mark Ballard (Lothians) (Green):** We have heard concerns from around the chamber that the criteria that have been presented in the Scottish Parliamentary Corporate Body's report are not sufficiently clear or transparent. Nora Radcliffe argued that they do not undermine back benchers' rights to introduce legislation. I wonder whether she might accept a slight amendment to that: the

SPCB's proposals severely undermine the right of back benchers to introduce some legislation and blunt a major tool by which back benchers may introduce some ideas to the Parliament. The proposals represent a limitation on some rights of back benchers. The criteria for that limitation include, as Nora Radcliffe said, the level of support that a proposed bill has. How she can argue that a judgment of how much support a proposal for a bill has is not a political decision escapes me.

We have heard from many members about the criteria of size, scope and complexity.

**Mr Andrew Welsh (Angus) (SNP):** The member must admit that there is a practical problem of finite resources, and that decisions must be taken. His solution is to have more finance, more staff and more everything. What, practically, is he suggesting should replace what the corporate body is proposing? The corporate body is proposing a practical answer to a practical problem.

**Mark Ballard:** That is the subject of this closing speech and I will deal with those points as I come to them. The solutions that the corporate body has chosen with respect to support for bill proposals and, in particular, their size, scope and complexity, have raised major concerns from across the chamber.

**Karen Gillon:** Mark Ballard and I fundamentally disagree on the issue of support. We must have some criterion that is based on support. Support is an indication of how likely it is that a bill will see its way through the Parliament. Given that support is now asked for after consultation, and that the process is an informed one, surely we will have a much clearer indication of the likely success or failure of a bill at least to make it through stage 1. We should not be putting resources towards something that has no chance of seeing the light of day.

**Mark Ballard:** That is what stage 1 is for: to assess the support in the Parliament for the general principles of a bill. We should not introduce what would effectively be a stage 0.

**Mr Stewart Maxwell (West of Scotland) (SNP)**  
rose—

**Mark Ballard:** I am sorry. I cannot take any more interventions; the Presiding Officer would scold me severely if I did.

To respond to Andrew Welsh's question on how best to deal with bills, the matter has been extensively discussed, first by the Parliamentary Bureau and then by the Procedures Committee. The first option, which many members mentioned, is to increase the resources for the non-Executive bills unit. When the unit was founded in 2000, it

had three members of staff. That went up to eight in 2002 in order to deal with a specific piece of committee legislation. It now has five members of staff. There is an opportunity to increase the staff resources for the non-Executive bills unit.

I recognise, as did all the members of the Procedures Committee, that that is not necessarily enough. We need more ways to maximise the resources that we have. That is why we have set higher hurdles. Consultation has to be done first, more signatures have to be obtained and there has to be cross-party support. That has reduced dramatically the number of bill ideas that become proposals on which NEBU needs to spend significant time. Those hurdles are the fair way to ensure that the best bills get support from the Parliament. We have heard proposals for additional hurdles, such as the idea of one member, one bill. That is always going to be a better way of dealing with things than is setting up a committee to consider the comparative merits of different proposals.

The corporate body proposal is to have a body of MSPs making those decisions. Bruce Crawford asked an important question: is the SPCB the right body and are the criteria used the right criteria? We have heard from Karen Gillon some good arguments why the corporate body is a problematic body to make the decision. It has closed meetings with no minutes, it is not directly accountable and three of the seven parties and groups in the Scottish Parliament do not have a representative on it. We need to explore whether another body could make the decision, such as a committee of back benchers. The right place to do it is the Procedures Committee. It should be considering the procedures and drawing up better ones using the mechanisms that we have; the corporate body should not be doing so.

**John Scott:** Will the member take an intervention?

**Mark Ballard:** No. I do not have enough time.

Finally, the corporate body has come up with the idea of having a vote in the chamber on which bills should receive support from the non-Executive bills unit. Karen Gillon outlined the problems with that proposal. What was predicted in the Procedures Committee will happen. There will be special pleading, such as John Swinburne asking quite rightly, "Where is my bill on the list?" and Brian Monteith lodging an amendment to try to get his bill back on the list. That will be inevitable if we are to have a vote in the Parliament. It will lead to political horse trading to get people's bills in or out. That is not a good way of making decisions.

It has been suggested that the criteria should not be set in stone. I want to hear what the corporate body has to say about that. Sufficient

concern has been expressed this afternoon to make the corporate body go back and think again, recognise the importance of members' bills, revise the proposals and come back with a new set of criteria that do not cause such concern.

15:57

**Iain Smith (North East Fife) (LD):** An awful lot of nonsense has been spoken in this debate about the corporate body's proposals on how to prioritise members' bills. I cannot see anything in the proposals that will restrict the right of members of the Scottish Parliament to introduce bills. That right will remain; it is part of the standing orders and is not part of prioritisation of the resources of the non-Executive bills unit. Some people might have to go to external sources to have bills drafted, as they did at the start of session 1, but the right to introduce bills will remain.

It is also important to bear in mind the Parliament's founding principles, which have been quoted. What has been said in that regard is absolute nonsense—when the consultative steering group considered members' bills, it did not propose that members would be able automatically to introduce bills. It said:

"Individual Members should be entitled to submit written proposals for legislation to the Presiding Officer. Such proposals should be brought before the Plenary if either they could secure the support of a minimum number of MSPs ... or ... to the relevant subject Committee"

for it to consider the competence of the legislation and report to Parliament. The CSG envisaged the bill proposal being decided on by Parliament, not the bill itself.

**Mark Ballard:** Does the member accept that one of the founding principles of the Parliament is power sharing? That means that when we are considering Executive bills, members' bills and private bills there should be equality of treatment. I do not hear the Executive saying, "We are not going to introduce complex measures, because the bill would be too complicated."

**Iain Smith:** I will come to that in a minute. The matter is not about complexity; it is about time and resources. The important point to bear in mind is that nothing in the proposals will withdraw power sharing from Parliament. All I am saying is that the CSG did not envisage members being able to go straight to introducing bills; Parliament was originally to be able to decide whether to support a bill proposal before the bill was drafted. That would have restricted severely the number of bills that have proceeded. This Parliament already does more than the CSG and the founding principles suggested.

The Procedures Committee considered the matter long and hard—as Mark Ballard will know,

having been on the committee at the time. We considered various ways of prioritising bills, but we realised that no system would be able to avoid political interference, or the appearance of political interference, in prioritisation. That is why the committee rejected options such as having a committee of the Parliament or the Parliamentary Bureau decide, or the creation of a special back-bench committee that would decide. However, we recognised that there would come a time in the session at which prioritisation would be necessary.

I will read out the parts of the Procedures Committee's sixth report in 2004 that deal with the matter—you can take the man out of the Procedures Committee but you cannot take the Procedures Committee out of the man. The report stated:

"We acknowledge that, because the new procedures we recommend are not a direct substitute for the prioritisation system originally proposed, they cannot prevent a situation arising where there are more members who have obtained a right to introduce Members' Bills than NEBU has resources to support".

It went on to say that

"In that event, choices will still have to be made as to how limited resources are allocated",

and it recommended that the SPCB would be the appropriate body to do that and to establish clear criteria.

One of the key points—it relates to whether the tartan register is more important than GM licensing—was that neither the policy content of proposals nor the political affiliation of members promoting them were to be considered as criteria for a bill; it would not be right for the SPCB to say that one bill is more important than another when it is applying criteria. It must consider the resource implications non-politically, which is what the proposals that are before us today will ensure.

It is important to bear it in mind that bills take up time not only in their drafting but in their passage through Parliament. NEBU must spend time dealing with stages 1, 2 and 3 of the bill, along with all the associated amendments. A complex bill will require a number of sessions in committee and will require more resources than a simple bill, which might require only one or two sessions in committee. It is not only the complexity of the proposal but the complexity of the bill that has resource implications in terms of drafting the bill, drafting amendments and consideration in committee.

The other finite resource that has barely been mentioned today is parliamentary time—Alasdair Morgan mentioned it when he spoke. It is important that we bear it in mind that Parliament has a finite amount of time and that we cannot deal with all member's bill proposals. There has to

be some prioritisation if Parliament is to be able to go about its business.

I agree with much of what Alex Johnstone said, although not the last couple of minutes of his speech. In particular, I agree with what he said about Parliament having being elected democratically and the Executive parties having a right, because they have the democratic mandate, to implement their programme for government. The purpose of the member's bill procedure is not to allow other parties to promote their manifestos, but unfortunately that is what is often done. The member's bill procedure is abused by parties that wish to promote their manifestos, which did not get the endorsement of the electorate.

**Christine Grahame (South of Scotland) (SNP):** The electorate did not endorse the Liberal Democrats either—Iain Smith's party lost the election. He does not have the mandate that he is talking about.

**Iain Smith:** I think that the member will find that the Executive parties are the majority in the Parliament, which means that we can implement our partnership programme.

A final point that was made by the Procedures Committee—and which deals with all the nonsense that Frances Curran talked—is the importance of consultation before a bill is lodged. That was placed at the centre of the member's bill process by the Procedures Committee. It is extremely important and involves engagement with the public.

**The Deputy Presiding Officer (Murray Tosh):** Mr Aitken, you are entitled to six minutes. However, if you can deliver your speech in less time, that would be appreciated, as we are short of time.

16:04

**Bill Aitken (Glasgow) (Con):** I will do everything possible to comply with your wish.

Everyone who is connected with business management in the Parliament would want to ensure that we are as flexible as possible, but flexibility has to some extent to be governed by what is practical. Right away, I say that I understand the frustrations that have been outlined by Chris Ballance, John Swinburne, Mark Ballard and—somewhat more stridently—Frances Curran. I acknowledge that they feel that bills about which they feel strongly are not going to get the appropriate parliamentary hearing, although I have to say that John Swinburne made sure that his proposed bill got a fair hearing when he spoke earlier, on the basis of his special pleading.

However, let us examine history. In the previous session we put through eight members' bills: two

Labour members, two Conservative members, two Liberal members, one SNP member and one SSP member got their bills through. Therefore, there appears to be an element of fairness and success in how back benchers are allowed to promote legislation. Parliament does not have to apologise to anyone for its procedures on this matter.

What is the alternative? Basically, it would be a free-for-all. It is no exaggeration that, on the basis of each member being allocated two bills per parliamentary session, we could have some 200 members' bills being considered in a four-year session. In fact, there would be more if it were not for the bloated Scottish Executive's having so many ministers that there are fewer back benchers to promote bills. How could Parliament be expected to cope with 200 bills? Financial and committee pressures would come into the equation, as Iain Smith said. The committees would not have sufficient time to examine bills, and neither would there be chamber time for that.

**Chris Ballance:** Does the member accept that in the real world there are 36 bill proposals at present, not 200? We set hurdles such as a required number of signatures in support of a proposal in order to reduce the number of proposals. That is the way forward, rather than a notion of arbitrary complexity.

**Bill Aitken:** Mr Ballance refers to the situation as it is at present. However, as Donald Gorrie said, the way that human activity expands to fill the time available would ensure that if the restrictions were not in place, we would be in serious difficulty.

What is the other alternative? Should we, as Alex Johnstone asked, adopt the Westminster ballot? In fact, every bill that has come before Parliament from back-bench members to date has been well thought out and researched, because members anticipated that they would have the opportunity to make a bill proposal. If we adopted the Westminster ballot system, we would find that a member whose name was drawn in the ballot would ask himself, "What will I legislate on?" Of course, that is not a proper way to introduce legislation.

I point out the merit in Brian Monteith's amendment: the process is time sensitive. Due to parliamentary bureaucracy's not catching up, his member's bill did not go through the system in sufficient time for the corporate body to consider it. I counter Nora Radcliffe's argument that if we had known that David Mundell was going to Westminster we should have lodged the bill in somebody else's name. If I knew who was going to win elections, I would be round the corner to William Hill the bookmakers with a large wad of £10 notes to make a substantial profit.

What we have today is a fairly sensible proposal. I hope that hearing Duncan McNeil will enable us to save some time later on. However, Brian Monteith's amendment is well worth consideration. On that note, Presiding Officer, I will end, having saved you one minute and 20 seconds.

**The Deputy Presiding Officer:** I am very grateful for that. However, we are still five minutes adrift; therefore, in calling Mr McNeil to wind up the debate, I ask him to do so in less than the scheduled 10 minutes, if possible.

16:09

**Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** I will try to comply. What do we have here today? We certainly do not have a political conspiracy. I do not recognise what we have tried to do today as an attempt to do down back benchers or to limit their powers. What we have tried to do is build on opportunities to influence Executive thinking and to develop policy. We in the Scottish Parliament are experts in failing to recognise that among the Parliaments of the world we are the only one to have a unit that actually helps members—not of the Government, but back benchers—through policy development, drafting and handling support.

What we have here today is not a political conspiracy but a failure to agree. Everyone has had a chance to talk about the issue and, even though I am a thick-skinned politician, I take slight umbrage at the pass-the-parcel game that we have been left with today.

Everyone also seems to have the answers. If there have been answers out there, we have been missing them since 2000, because we have been struggling with this problem since then. We have the problem because we have given members the expectation that they have a right to introduce a member's bill, irrespective of when they lodge it. That ambition clashes with the reality of management of the process and not the politics. It would be entirely wrong for any group of people, particularly the corporate body—which has been elected by and is accountable to Parliament—to make decisions about the merits of one bill as opposed to another. That would take us into a political area, which would be unacceptable.

To put matters in context, the criteria that we have described today will apply only when demand exceeds capacity. As Donald Gorrie said, that will happen, and our experience is that it does happen, which is why we are trying to manage the process. If we know or expect that demand will exceed capacity, we must manage the process. Decisions about what bills are put to the side should not be made in a smoke-filled room or by a

civil servant or an employee of the Scottish Parliament. As John Swinburne said, if a member's bill is not going to proceed, the member will want to know why. They will want to know what criteria were used and they will want the system to be open. That is what today's debate is trying to achieve.

Where is our point of reference? Iain Smith mentioned the Procedures Committee. Its report stated:

"we were unable to agree on how a system of prioritisation could be made to work in a way that would achieve its main aim of improving the management of the Member's Bill process while still protecting the rights of backbench members to initiate legislation ideas and have them considered on their merits."

We are here today because the Procedures Committee could not agree.

The report goes on to say that

"A Member's Bill should be an attempt to secure a worthwhile change".

Iain Smith made a very good point about the democratic deficit. The Executive has the opportunity to exercise its democratic mandate as the elected Government.

The Procedures Committee report also stated:

"A Member's Bill should be an attempt to secure a worthwhile change in the law (rather than a device to promote the member or his or her party's platform)."

We are dealing with all those issues.

There has been a great deal of discussion today about complexity and about who decides what that is. Again, the point of reference is the Procedures Committee, which said:

"There is probably no single criterion that can be adopted in advance that will resolve any competition among proposals for resources that might arise. In practice, there will be various factors that could or should be taken into account in making such decisions, without bringing in directly political considerations ... Other relevant factors may be the order in which members obtained a right to introduce a Bill; the relative complexity of the proposals and hence the resource implications of developing them into Bills".

That is all in the Procedures Committee's report and it is our point of reference when we address the issue. Of course we considered whether it would be a good idea to put more people into NEBU, but as Rob Gibson pointed out, it is not just about putting more money into the unit. The Procedures Committee rightly acknowledged that some committee members feel that they have been forced to pursue member's bills against the interests of their committee's bills. If we were to respond to that demand and allow more bills, this situation would continue.

**Mr Ruskell:** In the first session there were four committee bills but, in this session, only one



committee bill has been introduced. The member seems to be suggesting that there is a vast demand for committee bills.

**Mr McNeil:** Anyone who has dealt with NEBU will know that its role is not to stop people progressing bill proposals, but to actively encourage them to do so. I presume that that will continue to be the case. All that a back bencher needs to do is to prove that he has consulted on his proposal in some way, and then NEBU will develop the policy for him and support him throughout the development process. NEBU gives good advice from an expert point of view. Not many people can give the advice that that group of people can.

I recognise that a few members acknowledged the good work that NEBU does, although it is a shame that more did not do so. It provides members with a unique service and it does so effectively and honestly. It is wrong to pretend that, as a result of our efforts to manage out the problems that we are discussing, that group of people will suddenly become gatekeepers who will prevent us from submitting proposals for bills. The Green party should know that. NEBU works long, hard and effectively with that party's members. In fact, NEBU has dealt with nine bill proposals from members of the Green party this session. If each member had been allowed to make only one bill proposal, the Green party would have needed to drop three of its proposals and this debate could have been held among its members rather than in Parliament.

**Mark Ballard** *rose*—

**John Swinburne** *rose*—

**Mr McNeil:** I will give way to John Swinburne—I have already taken an intervention from the Greens.

**John Swinburne:** I would like clarification. Can the member enlighten me as to whether, if a bill does not make it during this parliamentary session, it will hit the ground running in the next session or have to go through the same procedures again?

**Mr McNeil:** It is my understanding that such a bill will not need to get over the same hurdles again and will be capable of being picked up by the member, or by someone else. That is an established procedure.

I emphasise that the criteria that are outlined in the SPCB's report are not the result of political shenanigans; rather, they represent a genuine attempt to build on NEBU's success and on the opportunities that exist for members to introduce bills. They will apply only when there is over-demand and we are simply explaining how we will make decisions when that is the case. That partly

answers the question that was asked about whether the SPCB's decision is for all time. I would expect such debates to occur perhaps once every parliamentary session. There will be an opportunity to suck it and see.

**Karen Gillon:** On that point, will we in the future debate the criteria rather than the bills that will be affected by them? That would be a fairer way to proceed, because now we are in a Dutch auction.

**Mr McNeil:** That is right, but we would have been accused of dishonesty if today we had attempted to discuss just the criteria and not their consequences. I understand the point that Karen Gillon makes.

Other members have taken the opportunity to plead their case. I turn to Brian Monteith, who, even though he told us that he was not pleading his case, did so very well. It was unfortunate that we were not able to discuss his proposal for a bill because it had not been lodged. We look forward to its being lodged. Both Brian Monteith and Alasdair Morgan mentioned the time sensitivity of such bills.

I hope that the Parliament will put aside the politics of the issue and agree that the problem that we face has been hard to resolve and that we must manage it. I ask members to support the motion in my name.

## Equality Bill

### **The Deputy Presiding Officer (Murray Tosh):**

The next item of business is a debate on motion S2M-3440, in the name of Malcolm Chisholm, on the Equality Bill, which is United Kingdom legislation. I thank those members who have already indicated that they will waive their closing speeches because we are very far behind the clock.

16:19

### **The Minister for Communities (Malcolm Chisholm):**

There has been significant progress in achieving equality between women and men since the Sex Discrimination Act 1975 was passed by a Labour Government. However, we still have a long way to go, as women continue to experience discrimination and inequality in the workplace and in many other areas of life. The Westminster Parliament's Equality Bill attempts to address the issue. Subject to the consent of the Scottish Parliament, it offers the chance to introduce a new duty on Scottish public authorities to promote gender equality. The duty will mark a shift in the nature of gender equality legislation from compliance to proactivity. It is a pragmatic and proportionate duty with a focus on outcomes that will help us better to deliver more effective policies and services. It will drive the mainstreaming of gender equality across all activities of the public sector, which is a critical element in challenging discrimination and inaction.

The Executive has been working hard with the Equal Opportunities Commission through our participation in a pilot project to develop gender action planning work in our Health Department. That work, which has been very positively received, will not only assist the EOC in preparing for the implementation of the duty but be of great assistance to us. Lessons are being learned and plans are being made. We welcome the opportunity to take this work forward as members of the Equal Opportunities Commission's United Kingdom and Scotland advisory groups on the gender duty.

Scottish Ministers will make regulations for Scotland in relation to the specific duties. We are jointly consulting with the UK Government on what the specific duties that will assist public authorities to comply with the gender duty should be. There are many issues to consider if we are to deliver the new duty. After the consultation, we will have a clearer picture of those issues and challenges.

At this stage, however, I would like to highlight the three key proposals for the specific duties: that public authorities must produce gender equality goals and schemes; that they must conduct

gender impact assessments to ensure that policies and services meet the needs of women and men; and that they must develop and publish a policy on developing equal pay arrangements. The third duty will include measures to ensure fair promotion and development opportunities as well as measures to tackle occupational segregation between women and men.

There is a great deal that we can learn from the implementation of the parallel race equality duty and from the work that has taken place on the forthcoming disability equality duty. Public sector organisations are already engaged with the duty to promote race equality, and the gender duty will build on the progress that has been made.

The Equality Bill will also establish the commission for equality and human rights. The proposed commission will, by March 2009, replace the Disability Rights Commission, the Equal Opportunities Commission and the Commission for Racial Equality. The remit for the proposed commission will cover England, Wales and Scotland. It will have three key functions, namely equality, human rights and good relations between communities.

The proposed commission will fulfil all the promotion and enforcement of legislation roles for race, gender and disability that are currently undertaken by the three existing commissions. It will also undertake a promotion and enforcement role for the other equality strands of religion and belief, sexual orientation and age. In addition, the new commission will have a promotional role in respect of human rights. There may be occasions when it would make sense for the CEHR to operate in devolved areas. The Equality Bill will provide for that to happen only when the CEHR has the consent of the proposed Scottish human rights commission.

The proposals for the CEHR and other measures in the bill were considered by the Equal Opportunities Committee on 13 September, when the committee took evidence from the equalities co-ordinating group. The group and stakeholders more generally broadly welcome the proposals that are contained in the bill. That said, I note the understandable concerns that the new commission should be established and operate in such a way that it fully takes account of the needs of Scotland.

In conjunction with the equalities co-ordinating group and other stakeholders, ministers and officials in Scotland have been working hard with our Whitehall colleagues to ensure that the new organisation will meet the needs of modern Scotland. We will continue to work to ensure that that is achieved. In particular, I have raised with Meg Munn, the Westminster minister with responsibility for equalities, all the issues that

Cathy Peattie, as convener of the Equal Opportunities Committee, wrote to me about.

The motion focuses on the key benefits to Scotland that we believe will come from the introduction of a duty on public authorities to promote gender equality.

I move,

That the Parliament agrees the principles contained in the provisions of the Equality Bill, including the power to impose duties on public authorities, so far as those provisions relate to matters within the legislative competence of the Scottish Parliament or confer functions on the Scottish Ministers, and agrees that those provisions should be considered by the UK Parliament.

16:24

**Ms Sandra White (Glasgow) (SNP):** I have absolutely no objection to any equalities duty being introduced for public authorities, particularly any equal pay duty or duties that assist ethnic minorities—no one would have any objection to such duties. However, my problems with the bill are that it creates duplication and that some of the powers that it will create will not be devolved but instead will go to Westminster. Some members might argue the point, but that is what a Sewel motion means.

I heard what the minister said about the Equal Opportunities Committee's concerns. I was going to read them out clause by clause, but because I have only five minutes to speak, I do not have time to do so. The minister said that he raised those concerns with Westminster's Meg Munn, but he did not give us any answers as to whether Westminster will accept any of the points that the committee raised. For that reason, I do not know whether I can support the motion.

A number of areas concern me, and there are two particular problems to which we should have had answers. One involves clause 17 of the bill, on grant-giving powers. Given the geographical spread of Scotland and the various community organisations that will interact with the CEHR, if the Scottish commissioner does not have grant-giving powers, the grant allocations system might not work properly.

I am also concerned about clause 19, which involves the promotion of work with agencies. The CRE already works with various agencies and communities, so that power should be devolved. I hoped that the minister would tell me that the powers outlined in clauses 17 and 19 were to be devolved to the proposed new Scottish commissioner, but he has not so far. I hope that we will have an answer to that today.

A point that the minister has not mentioned but which was mentioned to me and to the Equal Opportunities Committee is that there will be only

one Scottish commissioner among 15 in the UK. That is totally inadequate in a UK context—we need more than just one commissioner to represent Scotland's issues. The commissioners will have to be knowledgeable about devolved areas, and one is not enough. I hoped that the minister would mention that matter.

Another question that concerns me is why a commissioner for Scotland should be appointed by UK ministers with the endorsement of Scottish ministers, rather than be appointed by this Parliament.

The minister touched on the establishment of the commission for equality and human rights, which raises another area of concern. I am worried about duplication. The Justice 1 Committee is currently scrutinising the Scottish Commissioner for Human Rights Bill. Why are we using a Sewel motion to remove powers from a Scottish commissioner that we do not even have yet by giving them to Westminster? I am greatly troubled that the public might be confused by having two commissioners.

**Cathy Peattie (Falkirk East) (Lab):** I know that Sandra White has a genuine commitment to equal opportunities, which she has demonstrated in the committee. However, surely she agrees that having an Equality Bill that touches everyone in the UK is something to celebrate.

**Ms White:** Cathy Peattie knows that I and everyone on the Equal Opportunities Committee have worked hard on the matter. I do not seek to make a party-political point, but none of our fears has been addressed today. I thought that we might have got some answers. The concern, which I share, about the proposed Scottish human rights commissioner has been raised before in committee and with me personally. There will be confusion and duplication.

I mention another concern that Christine Grahame will pick up later. Although the children's commissioner, Kathleen Marshall, is doing a marvellous job, I worry that the bill might dilute her powers because it has been reported that there will be an overlap with her post. I hoped that the minister would say something about that in his opening remarks, but perhaps he will alleviate some of my fears in his closing speech. I felt that I had to express those genuine concerns.

**The Deputy Presiding Officer:** It might help if I indicate at this stage that I intend to give Cathy Peattie, as the convener of the Equal Opportunities Committee, four minutes to speak, but the other back benchers will have only three minutes. Please adjust your speeches now.

16:29

**Margaret Mitchell (Central Scotland) (Con):** As the content of the Equality Bill lies predominantly outwith the Scottish Parliament's legislative competence, my Conservative colleagues at Westminster will have to decide on the matters that it raises. Although they have expressed some concern about the bill's practical application, they have nonetheless indicated that they are content with its general principles. On that basis, the Scottish Conservatives will support the minister's motion this afternoon.

However, I would be grateful if the minister could clarify one aspect of the bill that has already been highlighted. The Scottish Executive memorandum states:

"the CEHR should have a Scottish Commissioner, who would be appointed by UK Ministers with the consent of the Scottish Ministers."

Will the minister confirm that this UK-appointed Scottish commissioner will be in addition to the Scottish commissioner for human rights, who will be appointed under the provisions of the Scottish Commissioner for Human Rights Bill? The pros and cons of that bill, which seeks to create a Scottish human rights commission, will be considered and discussed in full by the Justice 1 Committee. I contend that any proposal for two Scottish commissioners will constitute an unnecessary and unwarranted duplication of costs, effort and bureaucracy, especially in light of the Scottish Executive's statement that

"there may be occasions where for practical purposes it would be preferable for the CEHR to operate in the devolved area of human rights in Scotland".

I take this opportunity to put on record the Scottish Conservatives' grave concerns about the creation of two commissioners in Scotland.

16:31

**Nora Radcliffe (Gordon) (LD):** The Liberal Democrats support the minister's motion.

As members have pointed out, the Equality Bill creates a single equality body, extends anti-discrimination law and introduces a duty on public authorities to promote gender equality. The devolved issues highlighted in the Sewel memorandum relate to the gender duty and the CEHR's operation in Scotland. I want to raise several points on the latter issue.

As the issue of promoting equal opportunities is relevant to many devolved policy areas, all 15 commissioners on the CEHR will need to have a good understanding of devolution. When the Equal Opportunities Committee asked witnesses about the dialogue that had taken place between Scotland and London to prepare for the bill, we

were told that, although it had been adequate and had improved as it had gone along, it had been greatly assisted by a visit of the CEHR steering group to Scotland. I hope that the proposed commission will learn lessons from that approach.

I turn to the Equal Opportunities Committee's concerns about the bill. First, we should make it clear that, although it is proposed that the CEHR will have only one Scottish commissioner, it will also have a Scotland committee. It will be important for expertise from all the equalities strands to be represented on that committee.

We welcome the fact that an annual report will have to come to the Scottish Parliament, as that will give us an opportunity to monitor the commission's operation. After all, this arrangement will depend on good liaison and communication and sensitivity to the implications of devolution.

The committee was concerned about the grant-giving powers in clause 17 and provisions on working with communities in clause 19. I understand that, when the CEHR is established, it will be able to delegate such powers. If those powers do not come to us in the primary legislation, we should press the commission to delegate them when it is finally set up and able to do so. We must work hard to liaise and maintain channels of communication during and after the bill's passage through Parliament.

16:34

**Cathy Peattie (Falkirk East) (Lab):** The Equal Opportunities Committee took evidence on the bill from the three equality commissions, the Scottish Human Rights Centre, the Equality Network and the Scottish Inter Faith Council. The committee welcomes the bill's general principles, but several concerns remain, of which the committee wishes the Scottish Executive and Westminster to take account during the bill's progress through Parliament and the establishment of the commission for equality and human rights.

As Sandra White said, having only one commissioner with knowledge and experience of Scotland is insufficient. An understanding of devolution should be required of all commissioners to ensure effective coverage of reserved and devolved issues. The Scotland committee must function in Scotland in the same manner as the CEHR will function throughout Great Britain and must have the same range of skills and experience.

It is inconsistent that grant-giving powers under clause 17 will not be delegated to the Scotland committee, given that other promotional powers will be delegated. That provision should be amended. Similarly, given that criminal law in Scotland is devolved and hate crime law in

Scotland is different from that in England, it makes sense that the clause 19 power in relation to communities should be delegated to the Scotland committee. That is particularly important because the relevant expertise in criminal law and criminal justice in Scotland rests in Scotland.

Effective liaison between the Scotland committee and the disability committee will be crucial. For that reason, it may help if a Scotland committee member belongs to the disability committee and if a disability committee member belongs to the Scotland committee. The Disability Rights Commission expressed concern that the bill as drafted will restrict the secretary of state's ability to continue the disability committee, should that be recommended after the five-year review.

The Equal Opportunities Committee heard evidence that suggests that the overall annual budget for the CEHR is likely to be insufficient, which could have adverse impacts on the Scotland committee budget.

The committee generally agrees with the requirements to consult the Scottish ministers on codes of practice, but we feel that effective procedures need to be put in place to ensure that adequate liaison takes place to deliver the codes of practice that relate to Scotland. We feel strongly that the Scotland committee must be involved in the development of such codes. The committee welcomes the requirement in the bill for an annual report to be laid before the Parliament and suggests that an annual debate should take place.

When the proposed Scottish human rights commission is established, it is crucial that it should have the same powers in relation to devolved human rights matters as the CEHR will have for reserved human rights issues. It is essential to address that matter during scrutiny of the Scottish Commissioner for Human Rights Bill. The two organisations will have to work closely together, particularly on providing information to the public on their respective roles. To facilitate public access to the functions of both organisations, having a single point of contact would be beneficial. The public might feel a lot of confusion about whom to approach. The situation would be made easier if the offices of the two commissions were co-located in Scotland.

On gender duties, the committee agrees with the Equal Opportunities Commission that the elimination of harassment should be included in the duty that is placed on public authorities; that the Equality Bill should deal more clearly with the pay gap, which continues to be an issue and does not seem to be going away; and that the gender equality duty should be extended to cover transgender issues.

As for transitional arrangements, the CEHR shadow body should be up and running as soon as possible. The Scottish elements of that body should be established from the start to ensure Scottish involvement in the early decision-making process. When the organisation is formally established, it will be equally important for the Scotland committee to be appointed as soon as possible. The committee feels strongly that the extension that the bill makes to goods, facilities and services of anti-discrimination provisions on religion and belief should also be applied to sexual orientation legislation and to transgender people.

**The Deputy Presiding Officer:** I must hurry you.

**Cathy Peattie:** The committee urges the Scottish Executive to take on board the committee's comments and to do all that it can to ensure that its Westminster counterparts take forward our recommendations.

I welcome the bill. I am sad that we do not have the opportunity to discuss it in more detail. It is important that the Equal Opportunities Committee took evidence on the bill.

**The Deputy Presiding Officer:** I am sorry, but I will have to take one back bencher off the rota. Carolyn Leckie has a strict three minutes.

16:39

**Carolyn Leckie (Central Scotland) (SSP):** I will try my best and will cut straight to the chase. Generally, I am not very supportive of Sewel motions because I do not think that this Parliament should give away any of the limited powers that it has. When we have the opportunity to do better, we should do better—we have an obligation to do better.

The record of public bodies in Scotland on equal pay is abominable. The record of local authorities in failing to achieve equal pay since the inception of this Parliament in 1999 is a discredit to them and is an indication of this Parliament's lack of teeth.

I have some questions about the Equality Bill, what it will achieve and how this Executive will use the powers that the bill confers on it. How will the duty be measured? Will there be targets and timescales? For example, what difference will the bill make to the situation faced by women in local government now? An unseemly situation exists in local authorities such as Aberdeen City Council, which thinks that equal pay is about cutting the pay of men and levelling down rather than up. Local authorities are currently attempting to negotiate cuts in services with the trade unions in an attempt to achieve a bit of equal pay—not full equal pay. Councils are preparing to sell women

down the river and sell them short by denying them thousands and thousands of pounds of their legal entitlement to equal pay. Let us remember that equal pay is not a claim or a negotiation point but a right. It is supposed to have been a right for 30 years, so why are local authorities in this country offering, and asking trade unions to accept, deals that, in some cases, mean that individual women will lose up to £15,000 or £20,000 a year in back money?

I ask the minister what difference the bill will make to the situation faced by those women. What will the Executive do to achieve equal pay for those women with the powers that the bill confers on it? I suggest that the powers are not sufficient. I am opposed to the Sewel motion because I think that this Parliament can do better, should do better and has a duty to do better.

16:42

**Marilyn Livingstone (Kirkcaldy) (Lab):** As a member of the Equal Opportunities Committee, I take the opportunity to thank all those who gave evidence to the committee. I reiterate the convener's comments in welcoming the general principles of the bill, the purpose of which is to ensure that people are treated fairly and equally.

I welcome the proposal for the establishment of the commission for equality and human rights and the Scotland committee, but I ask that the bill also includes provision to deal more clearly with the pay gap, which—as has been said—continues to be an issue.

As the disability reporter to the Equal Opportunities Committee, I welcome the clarification in the bill that there will be a duty on the disability committee to consult the Scotland committee on all matters that relate to disability in Scotland. The relationship between those two committees will be important.

Adam Gaines from the Disability Rights Commission raised the issue of membership. As Cathy Peattie indicated, he stated:

"It would be helpful if a member of the disability committee was on the Scotland committee and vice versa".

He also stated:

"The disability committee should be properly informed of issues in Scotland and the Scotland committee should be properly informed of disability issues ... It would also be helpful if there was an impact assessment process when key policies were being discussed by the relevant committees to ensure that the disability committee considers Scottish issues and the Scotland committee considers disability issues."

The practical relationship between those two committees will be crucial to their success.

The DRC also expressed concerns about the mandatory review that will be held after five years. Although it accepts the need for the review, it has concerns about the current wording of the bill, which it believes

"would restrict the secretary of state's ability to continue the committee, if that was recommended by the independent review."—[*Official Report, Equal Opportunities Committee*, 13 September 2005; c 1087 and 1099.]

The DRC has asked that the relevant part of the bill be considered.

In conclusion, I welcome the general principles of the bill but ask the Scottish Executive and Westminster to take on board the issues raised by me and other members of the Equal Opportunities Committee. I welcome the introduction of the bill, which will take forward our equality agenda.

16:45

**Patrick Harvie (Glasgow) (Green):** I add my support for the Equality Bill and what it will do, which represents a step forward. However, it always seemed sensible to me to create a single equalities body for the UK and to have this Parliament give it one set of powers and Westminster give it another. That will not happen, but it should not be beyond the wit of the people involved to ensure that the two proposed organisations work reasonably well together.

The Equal Opportunities Committee raised a number of concerns about the bill and I will emphasise a few of them. One is that the bill provided an opportunity to take a more surefooted step forward. The bill is a step forward, but it could have been better. It could have been a useful vehicle for levelling up work on the various equality strands and the legislation that affects different groups. UK ministers have indicated that they are open to doing that at some point in the next few years, but we do not know when.

The hierarchy of equalities that exists can be seen in other areas, such as the proposed incitement to hatred legislation. I have an instinctive concern about censorship and free speech, but a strong case can be made for having a general incitement to hatred offence. However, I do not think that a realistic case can be made for having an incitement to hatred offence for some groups that are subject to regular hate crimes but not for others.

There are issues about the differences between the proposed CEHR, which I will call the UK commission, and the proposed SHRC, which I will call the Scottish commission. It appears that the UK commission will be able to conduct inquiries beyond the public sector into, for example, private sector care homes that provide a public service. However, it seems that the Scottish commission

will not have that power and that it will have to give consent to the UK commission to conduct such inquiries on its behalf. I hope that Lord Sewel is not asked to come up with a mechanism for that process. It would be far better for both commissions to be able to conduct inquiries beyond the public sector.

Another issue is that the UK commission will be able to take up individual cases, but the Scottish commission will not be able to take up cases on behalf of individuals who want to complain about their human rights being violated. I ask the ministers to respond to those points about the difference in powers between the UK and Scottish commissions.

I recognise that the bill is a huge step forward, but I hope that ministers will answer my points and will be open minded both about asking Westminster to change the Equality Bill, if necessary, and about changing the Scottish Commissioner for Human Rights Bill to ensure that it provides a strong and comprehensive level of protection here.

**The Deputy Presiding Officer:** We come now to closing speeches. I thank the Conservatives and the Liberal Democrats for waiving the opportunity to make theirs. Christine Grahame waived her opportunity to make a seven-minute closing speech in the previous debate, so I honour the commitment to give her a closing speech in this one.

16:48

**Christine Grahame (South of Scotland) (SNP):** That is charming. I was unaware that we had had that communication.

I have concerns about the proposed commission's role, which I want to focus on, and ask those in the Parliament who are sympathetic to the Sewel motion whether it is offensive in some respects—for me, the jury is out on that.

Both principles and practice are involved here. All members must support and adhere to principles regarding gender equality, human rights, anti-discrimination laws and so on. The problem is how the eventual act will be implemented in practice. My and my party's view is that that process will interfere with the devolution settlement. For example, the bill will impose a duty on public authorities to promote gender equality, but my understanding is that such a duty already exists in Scotland under the terms of schedule 5 to the Scotland Act 1998. Therefore, the proposal interferes with the devolution settlement.

The CEHR's work will be relevant to policy areas that are devolved to this Parliament, such as tackling racism, sectarianism and hate crime and

social inclusion and social justice. Again, the proposed commission's powers give cause for concern. For example, there will be powers to hold inquiries and to issue codes of practice for areas that are devolved to this Parliament. In addition, powers to monitor the law are proposed. Already, alarm bells are ringing for me.

Let us consider the commission's role in monitoring crime and crime prevention, particularly in the areas of assault aggravated by racial prejudice, sectarianism and crime that affects older people.

A proud heritage of Scotland, even before the Parliament was established, was the independence of its criminal law. It appears to me that the bill interferes with the processes and practices of independent Scots criminal law.

When promoting equalities in communities, the commission will be able to undertake work that relates to social, recreational, sporting and educational activities. The last time that I looked, all those areas were fully devolved. More alarm bells sound. There are points of similarity between the commission's remit in relation to age and the roles of the children's commissioner and probable older people's commissioner. Many members from all parties applaud the firm, robust stance of Kathleen Marshall on the human rights of children of asylum seekers. Would her wings be clipped by the bill? Many would like that to happen. More alarm bells sound.

Under clause 7 of the bill, the commission for equality and human rights could be prevented from taking action in relation to human rights only by a similar body that has been established by the Scottish Parliament. Presumably, the reference is to the Scottish human rights commission. It is not clear whether the clause relates to the roles of the children's commissioner or the proposed older people's commissioner. In those circumstances, something might well be imposed from Westminster on areas that are fully devolved and very independent in Scotland, including the children's panels.

Let us consider the structure of the commission's board membership. The member with special knowledge of Scotland will be chosen with the agreement of Scottish ministers, rather than of the Parliament. When we choose our commissioners, they are voted in democratically by the Parliament, after selection and debate. That will not happen in this case. Although the commission will have the ability to lay the reports of its activities before the Scottish Parliament, there is no provision for the Parliament or the Equal Opportunities Committee to do anything about those reports. It is not clear that we will be able to criticise the commission or to call for

evidence from it. Cathy Peattie is nodding, but I am not sure whether she is in agreement with me.

**Cathy Peattie:** The Equal Opportunities Committee can ask the current equalities commissions to tell us about the work that they are doing and can question that work. We will be able to do the same with the Scotland committee of the CEHR. It is important that we do not confuse the role of the commissions with the role of the Parliament, as is happening here.

**Christine Grahame:** I am not confusing anything. I am quite clear that we support the principles, but the processes and practicalities of the bill will take power away from the Parliament in areas that are already devolved and in which we are putting clear blue water between us and Westminster.

Confusion will arise between the Scottish human rights commission and the Scottish member of the board of the CEHR. Duplication has already hit the Justice 1 Committee in the face. I understand that the committee is appointing an adviser to take it through the quagmire of conflicts and confusion that there will be where one commission is doing the work of the other. Devolution muddies the waters, thank goodness. There are no clear borders between reserved and devolved issues, especially in the areas with which the bill deals. The problem for ministers is that the muddied waters are going in the wrong direction. If I may mix my metaphors, the tide is moving towards Westminster taking back from the Parliament powers that were hard fought for.

For all the reasons that I have outlined, for the Scottish National Party the jury remains out. That will remain the case until the minister or deputy minister can answer the questions that I have put. They will not be able to do so today, so we will abstain at decision time.

16:54

**The Deputy Minister for Communities (Johann Lamont):** I welcome the opportunity to sum up in this debate. I start by reflecting on the significance of the debate. It did not start today, last week or last year. I am proud that this is a further stage in an important journey of more than 30 years of challenging inequality and injustice in our society. I am proud that a Labour Government is acting now and building on the groundbreaking work of previous Labour Governments, which was shaped by the work of Labour women, the Labour Party, the trade union movement and women far beyond the party. They understood that, in order to get real justice, we had to understand what inequality looked like, and they were determined to challenge discrimination against women.

We must recognise how far we have come. The debate could be a technical one about targets, structures and duties, but underpinning it is an understanding that has been developed over a long period not just that our society is unequal—for example, that women are more likely to be low paid, to be carers or to suffer pensioner poverty—but of why that happens and what needs to be done to deal with it.

In that context of change and movement, we should reflect on the Opposition's position on the Sewel motion. It is not surprising that the SNP is taking another opportunity not to support a Sewel motion. The SNP spends its parliamentary life sprachling about looking for a hook on which to hang its constitutional obsessions. Of course there are practicalities, which I will try to address, but it is worth reflecting on the priorities of an Opposition that uses those practicalities as an alibi to talk down a policy. It will oppose the policy on a point of principle: because it comes from Westminster.

On Carolyn Leckie's point about low pay, we must accept that the Equality Bill, which will inform and shape the issues around women's inequality, is only part of a broader purpose and will not sort out everything on its own. We must consider how to harness more effectively the powers at every level—locally and at the Scottish and Westminster levels—to deliver change. The equal pay issue is why the gender duty will be so important to the new body.

A number of members made practical points about clauses 17 and 19. It will be possible for the CEHR to consider how those powers are implemented and to delegate the responsibility for them. Malcolm Chisholm has already made the case on that issue and we will continue to be in dialogue with the UK Government on it. There is a role for the Equal Opportunities Committee in monitoring the work. Nobody in the Scottish Executive or on the partnership side wants the equality legislation to fail, so we take the responsibility seriously.

The Scottish commissioner will be chosen at a UK level because the commission will be a UK body. However, the Scottish ministers will have to agree on the choice. On Margaret Mitchell's point, there will be a separate commissioner. I am aware that the Justice 1 Committee will explore the issues of duplication further as the Scottish Commissioner for Human Rights Bill progresses.

I also note the points that Nora Radcliffe and other members of the Equal Opportunities Committee made, specifically Cathy Peattie. The disability committee could continue after the five-year review if that was felt to be necessary.

I am happy to advocate at least an annual debate on the issues in the equality legislation.



However, the challenge for the Parliament is not to think about equalities issues once a year, but to mainstream the thinking into every aspect of our work. I confirm that the elimination of harassment is to be part of the gender duty. Of course, Malcolm Chisholm will make a further detailed response to the points that the Equal Opportunities Committee made on that issue. That will not just be a response; we are determined to act on the important issues that have been flagged up.

It is crucial that there will be on-going dialogue with Westminster. We want to talk to people at every level of government to make the bill work rather than to identify the barriers that Christine Grahame so tellingly pointed out. The reality is that what Christine Grahame said is not what the equality bodies have said about the proposals. She does not seem to be able to distinguish between promoting equal opportunities and laying down a duty. I am sure that when we lay down a duty, it will result in significant change in the lives of ordinary women.

So often, people come to bury rather than praise our Labour Government and all things to do with Westminster. Let us take the opportunity to support the Sewel motion and to recognise how far we have travelled in challenging inequality. We should welcome the opportunity for members, the Scottish Executive and the Equal Opportunities Committee to work alongside Westminster, local government and all public bodies to make real in practice an aspiration that I am sure we all share: greater equality for women.

## Business Motions

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of business motions. We begin with motion S2M-3462, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a business programme.

*Motion moved,*

That the Parliament agrees the following programme of business—

Wednesday 2 November 2005

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Executive Debate: Freedom of Information

*followed by* Ministerial Statement: Influenza Contingency Plan

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 3 November 2005

9.15 am Parliamentary Bureau Motions

*followed by* Scottish Conservative and Unionist Party Business

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time—Enterprise, Transport and Lifelong Learning; Justice and Law Officers

2.55 pm Parliamentary Bureau Motions

*followed by* Stage 3 Proceedings: Management of Offenders etc. (Scotland) Bill

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 9 November 2005

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Stage 3 Proceedings: Environmental Assessment (Scotland) Bill

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 10 November 2005

9.15 am Parliamentary Bureau Motions

*followed by* Executive Business

11.40 am General Question Time  
 12 noon First Minister's Question Time  
 2.15 pm Themed Question Time—  
 Education and Young People, Tourism,  
 Culture and Sport;  
 Finance and Public Services and  
 Communities  
 2.55 pm Executive Business  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business.—[*Ms Margaret Curran.*]

17:00

**Margo MacDonald (Lothians) (Ind):** In raising this question, I have no wish to oppose the Government's programme for business next week or to wreck it. I have already cleared that with the minister and I think that she understands why I am doing this.

I did not expect to hear from the senior policemen who gave evidence to the justice committees this morning that the measure that is being debated at Westminster as we speak—the Terrorism Bill—would have such an impact on the operational requirements of Scottish policing, an area for which the Scottish Parliament has complete, autonomous devolved responsibility. I therefore oppose the business motion simply because we do not appear to have any mechanism for debating that urgent and utterly relevant matter for which the Parliament is responsible. If the minister can assure me that she will find time for a debate on the matter in the Parliament—from our perspective not as the primary policy makers but as the body that is responsible for carrying out the policy in a practical sense—I will be happy not to push the motion to a vote. However, if she cannot give me such an assurance, I will push it to a vote.

17:01

**The Minister for Parliamentary Business (Ms Margaret Curran):** I thank Margo MacDonald for giving me prior warning of the point that she has raised—she has raised similar points at the Parliamentary Bureau, as I think you are aware, Presiding Officer. As in all circumstances when business managers raise points, those points will be discussed at the bureau. I will take the matter to the appropriate Executive minister and attempt to respond constructively to the business manager concerned. In this circumstance, I will take the point that Margo MacDonald has raised—I recognise the gravity that she attaches to it—to the appropriate Executive minister and return to the bureau with a response.

*Motion agreed to.*

That the Parliament agrees the following programme of business—

Wednesday 2 November 2005

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions*followed by* Executive Debate: Freedom of Information*followed by* Ministerial Statement: Influenza Contingency Plan*followed by* Business Motion*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 3 November 2005

9.15 am Parliamentary Bureau Motions

*followed by* Scottish Conservative and Unionist Party Business

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time—Enterprise,  
Transport and Lifelong Learning;  
Justice and Law Officers

2.55 pm Parliamentary Bureau Motions

*followed by* Stage 3 Proceedings: Management of Offenders etc. (Scotland) Bill*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 9 November 2005

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions*followed by* Stage 3 Proceedings: Environmental Assessment (Scotland) Bill*followed by* Business Motion*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 10 November 2005

9.15 am Parliamentary Bureau Motions

*followed by* Executive Business

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time—  
Education and Young People, Tourism,  
Culture and Sport;  
Finance and Public Services and  
Communities

2.55 pm Executive Business

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business.

*Motion moved,*

That the Parliament agrees that consideration of the Police, Public Order and Criminal Justice (Scotland) Bill at Stage 1 be completed by 3 February 2006.—[*Ms Margaret Curran.*]

*Motion agreed to.*

*Motion moved,*

That the Parliament agrees that the timetable for consideration of the Abolition of NHS Prescription Charges (Scotland) Bill at Stage 1 be extended to 26 January 2006.—[*Ms Margaret Curran.*]

*Motion agreed to.*

## Parliamentary Bureau Motions

17:03

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of five Parliamentary Bureau motions.

*Motions moved,*

That the Parliament agrees that Donald Gorrie be appointed to replace George Lyon as the Scottish Liberal Democrat substitute on the Enterprise and Culture Committee.

That the Parliament agrees that Euan Robson be appointed to replace Robert Brown as the Scottish Liberal Democrat substitute on the Health Committee.

That the Parliament agrees that Mike Pringle be appointed to replace Margaret Smith as the Scottish Liberal Democrat substitute on the Justice 2 Committee.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 11) (Scotland) Order 2005 (SSI 2005/455) be approved.

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Scottish Commissioner for Human Rights Bill at Stage 1.—[*Ms Margaret Curran.*]

**The Presiding Officer:** The questions on those motions will be put at decision time.

## Decision Time

17:03

**The Presiding Officer (Mr George Reid):** There are seven questions to be put as a result of today's business.

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** On a point of order, Presiding Officer. Having had the benefit of hearing the earlier speeches of John Scott and Duncan McNeil, I seek the permission of the chamber to withdraw my amendment S2M-3411.2.

**The Presiding Officer:** Under our rule 8.6.4A, Mr Monteith may withdraw the amendment in his name unless a member objects to its being withdrawn. If any member objects, they should shout "Object" now.

**Carolyn Leckie (Central Scotland) (SSP):** Object.

**The Presiding Officer:** In that case, I have to put the question. The first question is, that amendment S2M-3411.2, in the name of Brian Monteith, which seeks to amend motion S2M-3411, in the name of Duncan McNeil, on a report on the prioritisation of the non-Executive bills unit's workload, be agreed to. Are we agreed?

**Members:** No.

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

### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Curran, Frances (West of Scotland) (SSP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)

### AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, 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)  
 Canavan, Dennis (Falkirk West) (Ind)  
 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)  
 Eadie, Helen (Dunfermline East) (Lab)

Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McMahan, 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)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

### ABSTENTIONS

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)

Goldie, Miss Annabel (West of Scotland) (Con)  
 Hyslop, Fiona (Lothians) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Welsh, Mr Andrew (Angus) (SNP)

**The Presiding Officer:** The result of the division is: For 11, Against 80, Abstentions 21.

*Amendment disagreed to.*

**The Presiding Officer:** The second question is, that amendment S2M-3411.1, in the name of Chris Ballance, which seeks to amend motion S2M-3411, in the name of Duncan McNeil, on a report on the prioritisation of NEBU's workload, be agreed to. Are we agreed?

**Members: No.**

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

**FOR**

Adam, Brian (Aberdeen North) (SNP)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Curran, Frances (West of Scotland) (SSP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fox, Colin (Lothians) (SSP)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 MacDonald, Margo (Lothians) (Ind)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 White, Ms Sandra (Glasgow) (SNP)

**AGAINST**

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 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)

Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 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)  
 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, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (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)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 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)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)

Welsh, Mr Andrew (Angus) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Lochhead, Richard (North East Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 21, Against 90, Abstentions 1.

*Amendment disagreed to.*

**The Presiding Officer:** The third question is, that motion S2M-3411, in the name of Duncan McNeil, on a report on the prioritisation of NEBU's workload, 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)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 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)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 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)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 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)  
 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, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 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)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (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)  
 Welsh, Mr Andrew (Angus) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Curran, Frances (West of Scotland) (SSP)  
 Fox, Colin (Lothians) (SSP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 White, Ms Sandra (Glasgow) (SNP)

#### ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)  
 Gorrie, Donald (Central Scotland) (LD)  
 MacDonald, Margo (Lothians) (Ind)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 94, Against 14, Abstentions 4.

*Motion agreed to.*

That the Parliament endorses the prioritisation criteria set out in paragraphs 7 to 9 of the Scottish Parliamentary Corporate Body's 2nd Report, 2005 (Session 2): *Report on the Prioritisation of the Non-Executive Bills Unit's Workload* (SP Paper 434) and therefore agrees the recommendations in paragraph 19 of the report.

**The Presiding Officer:** The fourth question is, that motion S2M-3440, in the name of Malcolm Chisholm, on the Equality Bill, which is United Kingdom legislation, be agreed to. Are we agreed? That is agreed.

**Members:** No.

**The Presiding Officer:** I am sorry—I did not hear that no. Please shout louder. You can, of course, shout very loud when you want to, Ms Grahame. There will be a division.

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (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)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)

McCabe, Mr Tom (Hamilton South) (Lab)  
 McGregor, 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)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 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, Eleanor (Highlands and Islands) (Green)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Curran, Frances (West of Scotland) (SSP)  
 Fox, Colin (Lothians) (SSP)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Swinburne, John (Central Scotland) (SSCUP)

#### ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Robison, Shona (Dundee East) (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 85, Against 7, Abstentions 20.

*Motion agreed to.*

That the Parliament agrees the principles contained in the provisions of the Equality Bill, including the power to impose duties on public authorities, so far as those provisions relate to matters within the legislative competence of the Scottish Parliament or confer functions on the Scottish Ministers, and agrees that those provisions should be considered by the UK Parliament.

**The Presiding Officer:** Unless any member objects, I propose to put a single question on motions S2M-3451 to S2M-3453. There being no objections, the fifth question is, that motions S2M-3451 to S2M-3453, in the name of Margaret Curran, on committee substitutes, be agreed to.

*Motions agreed to.*

That the Parliament agrees that Donald Gorrie be appointed to replace George Lyon as the Scottish Liberal Democrat substitute on the Enterprise and Culture Committee.

That the Parliament agrees that Euan Robson be appointed to replace Robert Brown as the Scottish Liberal Democrat substitute on the Health Committee.

That the Parliament agrees that Mike Pringle be appointed to replace Margaret Smith as the Scottish Liberal Democrat substitute on the Justice 2 Committee.

**The Presiding Officer:** The sixth question is, that motion S2M-3454, in the name of Margaret Curran, on the approval of a Scottish statutory instrument, be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 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)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 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)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)

Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 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)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 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)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 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, Eleanor (Highlands and Islands) (Green)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (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)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Curran, Frances (West of Scotland) (SSP)  
 Fox, Colin (Lothians) (SSP)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)

**The Presiding Officer:** The result of the division is: For 108, Against 5, Abstentions 0.

*Motion agreed to.*

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 11) (Scotland) Order 2005 (SSI 2005/455) be approved.

**The Presiding Officer:** The final question is, that motion S2M-3455, in the name of Margaret Curran, 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 Scottish Commissioner for Human Rights Bill at Stage 1.

## Summer Academy @ Strathclyde

**The Deputy Presiding Officer (Trish Godman):** The final item of business today is a members' business debate on motion S2M-3226, in the name of Bill Butler, on the summer academy @ Strathclyde.

*Motion debated,*

That the Parliament congratulates Strathclyde University on its innovative Summer Academy, now in its seventh year; recognises the role which it plays in the promotion of the benefits available to young people who wish to continue their studies into further and higher education; notes that the academy now attracts up to 900 school students annually from upwards of 130 secondary schools in west central Scotland, as well as welcoming students from Spain and Sweden; celebrates the scheme as a significant way both to widen access to further and higher education and to promote social inclusion; hopes that it may provide a model for other academic institutions both in Scotland and Europe, and commends the university staff and student mentors for the part they have played in the creation of a Scottish success story as over 6,000 young people have to date graduated from the Summer Academy @ Strathclyde.

17:12

**Bill Butler (Glasgow Anniesland) (Lab):** I thank all members who signed up in support of my motion and all those who intend to participate in this evening's debate. The topic is a good-news story. It is important that we take the time to highlight it to find out what lessons we can learn from the achievements of the summer academy @ Strathclyde and to consider how we can spread its benefits across Scotland.

The summer academy model offers a practical way of emphasising the opportunities that further and higher education can provide to an ever wider group of young people. Before I go any further, I wish to pay tribute to Christine Percival, the director of the summer academy, together with her team, for their vision and commitment in making the project such an overwhelming success. They, along with student mentors, are in the gallery to listen to this evening's debate—they are most welcome.

The concept of the summer academy was developed by the University of Strathclyde faculty of education in 1999. The aim of the project was to address the lack of motivation among some secondary 3 and secondary 4 pupils that had been reported by schools, to raise those young students' aspirations and, in turn, to increase the number of young people from mainly disadvantaged areas who go into further and higher education.

The initial plan was for the academy to run for 10 days over a two-week period. The academy comprised a curriculum component, a recreational component and a study support component. The

curriculum and recreational components were based on a challenge philosophy, with students being presented with progressively more complex and demanding challenges as the 10 days progressed. The idea of having micro, mini, maxi and mega challenges was adopted for the curriculum component in particular, with all the key areas of the curriculum targeted and supported by challenges.

The academy was specifically aimed at those pupils who had completed S3 and who, with the necessary support and encouragement, could turn their anticipated standard grade performance from general levels to credit levels, thus opening up a range of opportunities in both further and higher education. Students from schools in the west of Scotland would be split into small groups of around 10 to 12. They were expected to tackle the various challenges through co-operative and collaborative effort. The young students would be led by mentors appointed from the undergraduate body of the University of Strathclyde. Those mentors would help, advise and guide the young students towards solutions to the challenges.

The 10 days are challenging and difficult. One of the main things that I learned from speaking with students who have taken part is that they all thoroughly enjoyed themselves and found the 10 days at Jordanhill campus stimulating.

An article in *The Herald* of 12 July described the teaching technique at the summer academy as "learning by stealth". I do not know whether I agree with the use of the word "stealth", but the academy certainly takes aspects of the curriculum and presents them to young people in new and imaginative ways that grab their attention and spark their interest in subjects that they thought were not for them.

Places in the summer academy are offered to all schools in west central Scotland and four academies take place over the summer holiday. Some 629 pupils took part in the first academy in 1999. That figure had grown to between 800 and 900 this summer. Currently, the academy serves almost 130 secondary schools from a wide geographical area—from Shotts to Islay and from Girvan to Cumbernauld—and each year sees new schools sending representatives to participate.

The academy also helpfully provides careers-related information to the students, making them aware of the various career options that are available to them. Students are also given the opportunity to meet career advice specialists and graduates from different subject disciplines. In addition, students are offered a wide range of recreational opportunities, ranging from traditional Scottish Highland games through to web design and drama. In effect, the summer academy seeks

to involve the whole student—the whole person—and rightly so.

As more and more schools and local education authorities have shown their support for the academy, a number of spin-off projects have developed, including study skills days, primary-secondary liaison programmes and "Xtreme learning days" involving whole-school participation. I am glad that those projects are being adopted by an increasing number of schools.

The study support programme has grown considerably since 1999. Today, it includes specific study advice and explores study techniques such as brainstorming, mind mapping and strategic planning. Personal help and guidance is on offer to any student who makes summer academy staff aware of particular study problems or whom mentors identify as having a particular difficulty.

There is also an established programme of mini academies aimed at young people moving from primary 7 to secondary 1. Those are being delivered in Glasgow, East Dunbartonshire and South Lanarkshire. Indeed, I had the pleasure of visiting one such academy in Drumchapel High School in my constituency two years ago.

The culmination of each academy is the grand graduation ceremony. I have had the honour and pleasure of being asked to speak at a number of the graduation ceremonies in recent years and to present young people with their certificates. I found the experience exhilarating and impressive. I know that a number of my colleagues have also had that experience, including the Minister for Education and Young People, the Solicitor General for Scotland, the Minister for Justice, Tommy Sheridan and Dorothy-Grace Elder, who is a former member. I am sure that they, too, will have enjoyed the event and will have been thoroughly impressed.

The graduation ceremony provides the students with the opportunity, in front of a large audience of family and friends, to present the work that they have completed over a fortnight—work of a high standard, covering displays, exhibitions and a set of often very colourful and elaborate performances.

Does it work? It does, because evaluative studies of the work done with students at the summer academy have confirmed that it exercises a major impact on the educational success and career aspirations of the young people who participate. It is precisely because of that success that schools are becoming increasingly keen to participate in the spin-off outreach programmes.

In 2005 young people from Sweden, Holland, Norway, Germany and Spain took part in the

academy at Jordanhill and this year the University of Barcelona is commencing its own replica of the academy programme. My colleague Catherine Stihler MEP visited the Jordanhill campus this year and was greatly impressed by the commitment of the young people and the organisers.

Given that the work of the academy is increasingly being recognised abroad, it is vital that we continue to learn from the model here in Scotland. I ask the minister to say whether the Executive is looking closely at the summer academy and considering how its achievements can be translated throughout Scotland.

Since its inception, the summer academy has become widely recognised as one of Scotland's most innovative education projects. It has been a phenomenal success and has helped to improve the opportunities of thousands of young people in the west of Scotland. Fundamentally, it is a truly socially inclusive project that offers young people a dynamic programme addressing all key curricular areas and, significantly, all the national priorities for education. I know that members will wish to note that participants also tend to gain higher passes in their standard grade exams—their passes are at twice and, in many cases, three times the national average. That is good news.

Most important, the summer academy serves to boost the confidence and self-esteem of the young people who participate, firing their ambition. It encourages them to think of continuing into tertiary education. Participating in the summer academy makes a difference in the students' attitude to learning. I believe that imaginative programmes such as the summer academy tap into a rich seam of talent and provide the proper setting in which Scotland's young people can develop and exploit their gifts. I whole-heartedly congratulate all those involved in this Scottish success story.

17:20

**Linda Fabiani (Central Scotland) (SNP):** I was pleased to sign Bill Butler's motion about the summer academy because I had the privilege of attending an open day that took place at the end of one of the fortnightly academies and was extremely impressed by what I saw. Bill Butler has outlined what the academy does, so I will give my impressions of what I saw on that day.

I was invited by the principal, but that invitation was at the instigation of Kirsteen Currie, a family friend who has been one of the summer academy's mentors for a couple of years, during which time she has told me how much good is done through the work of the summer academies. I turned up that day and the place was busy, because it was the day when parents were coming

to see the young people graduate. There was an exhibition of the work that had been done during the previous fortnight. I was absolutely stunned by the amount of work that had been packed into those two weeks, by the standard of the work—some of the projects were extremely detailed—and by the variation in the work. Most of all, I was struck by the socially inclusive nature of the academy. Young people from all walks of life and from all sorts of schools were taking part in the on-going teamwork. Although the two-week academy could make some academic difference, it was primarily about motivation and confidence building.

Two things stuck in my mind from that day. First, one of the teams had carried out a healthy eating project and had produced a billboard with "healthy eating" on one side and "unhealthy eating" on the other. In the middle of the "unhealthy eating" side was a big picture of Alex Johnstone stuffing his face with a pie. When I said to the team, "I know that chap. Do you know who he is?" they said, "Oh yes—he should know better." That was why his photograph had been used. I apologise to Alex Johnstone for telling that story, but I have already told him about it, so I hope that that was okay.

The other thing that stuck with me was much more serious. I got talking to two young girls who had carried out a somewhat forensic project on different elements of the bladder, how people's bodies work and so on. It was complicated and interesting. One young lass said to me that, when they first went to the academy, they thought of leaving immediately because everyone else spoke much better than they did and they felt a bit out of their depth. However, they were amazed to have done better than some of the people who spoke better than they did. That is an important issue—some people in that age group are not confident that they can compete and go on to higher education. In that regard, some of the parents who I spoke to were absolutely delighted that their children were doing so well at the summer academy. They were being motivated to push their children a little more because they had found out what they were capable of.

Just before the graduation ceremony, there was a concert during which some of the work that had been produced was dramatised. Again, the standard of work was high and it was amazing to think that that had been achieved in two weeks.

Bill Butler introduced the topic as a good news story—it certainly is and its benefits should be spread. I understand that this year pupils from 119 schools in 13 local authorities in the west of Scotland attended the academy. I would love to see that rolled out further across Scotland. The University of Strathclyde is leading the way in this initiative in Europe, and the University of

Barcelona initiative proves that. Let us roll it out across Scotland and send the benefits further.

17:25

**Lord James Douglas-Hamilton (Lothians) (Con):** I congratulate Mr Bill Butler warmly on his success in raising this important issue in Parliament. He is right to support this extremely worthwhile programme; indeed, the summer academy @ Strathclyde is an ambitious and highly successful project that provides young people from diverse backgrounds with an opportunity to experience university life at a pivotal point in their school careers. Through their experience of the academy, participants can improve their self-esteem, develop a more positive attitude to education and realise that applications to college and university are an achievable reality. In other words, opportunity knocks for those who are interested in pursuing a good deal.

The academy can attribute much of its success to the sophisticated planning and dynamic delivery of its programme of academic and extra-curricular activities. The programme sets out successively more challenging tasks for participants and provides settings in which young people can achieve the final maxi-challenges. They range from producing a radio or video news broadcast, to promoting and marketing a company that is fighting to win a contract, to designing a cityscape, to producing a cooking programme in French. Now that we are commemorating the battle of Trafalgar, I suspect that even Admiral Horatio Nelson would warmly approve. Each challenge is based on a core area of the curriculum, with emphasis on promoting national priorities for education, citizenship, enterprise, health, and Scottish culture.

As well as academic and recreational activities, participants learn team skills including brainstorming, mind-mapping, time management, and career guidance, to mention but a few. In addition, the programme involves visits to other parts of the university campus and to business venues to demonstrate the relevance of what is being learned and to highlight that learning and working are linked and are a continuing process.

The undergraduate and post-graduate student mentors act as valuable role models for young people who may aspire to go to university, but who have not always considered it to be "for the likes of us". Bill Butler made that point. The increasing complexity and fast-paced nature of the programme ensures high levels of motivation, demands continuing self-improvement and allows realistic opportunities for achievement and success.

The summer academy is supported by local authorities, the Hunter Foundation and Scottish Enterprise. Their involvement is very much to be welcomed, although it would be encouraging to see even more involvement and sponsorship from industry. One point that Bill Butler and Linda Fabiani stressed was that the summer academy helps to instil confidence in the young people who attend it—they are absolutely right. Our economy would also benefit from successful schools that produce well-qualified young people who have the skills and aptitudes to equip them to be confident and vigorous contributors to the Scottish economy.

There would be merit in expanding the scheme into other parts of Scotland and beyond. Many of the key elements such as teamwork, problem solving and relevance for employment could also be given greater emphasis in schools. The two-week course at the summer academy creates an ethos of enlightened endeavour and presents university education as providing opportunities for accessibility and educational excellence.

We wish the summer academy every success.

17:29

**Patrick Harvie (Glasgow) (Green):** It is traditional in members' business debates to congratulate the member on securing the debate on the motion. I was certainly very happy to support it. I am not sure how in need of congratulation Bill Butler is—he has perhaps secured more members' business debates than I can count. However, I am pleased to let Parliament know that I will make my debut in that capacity next week. I hope that members will participate.

Widening access to higher education is a hugely important objective and most members of all parties recognise that the current Government takes it seriously. One of the things that the summer academy gets right is that it tries to achieve that objective in a way that does not just provide a tokenistic approach for young people from a particular geographic area or type of school or background. It tries hard to create a social and cultural mix in the groups with which it works, which is very important.

The international mix adds to that. Bill Butler mentioned Spain, Sweden, Holland and Germany—I might have missed one—as well as the initiative at the University of Barcelona. I am very interested in that because I was in Barcelona on Friday for a conference. I happened to have with me as some of my travel reading a little history of Scottish universities. I did not finish it, so perhaps I am not as good a student as I might be, but Scottish universities have a long-standing tradition of being more accessible and of involving

not just people from a narrow social background. The way in which that was done in centuries gone by might not be appropriate to today, so we need to continue to invent new approaches and to be creative.

The benefits of the scheme will stay with many of the young people who take part in it for many years, whether or not they end up in higher education; if such schemes can give young people a fresh perspective on their choices at secondary school or thereafter without their going into higher education, we should recognise its value.

The best thing that such a scheme can achieve is the creation of a positive sense of the value of education throughout our lives, not just for a short time when we are young. Education's purpose should not just be about what the economy or industry needs; it should not just be about training people up for the jobs market. It is about creating and shaping a culture and about fostering a creative, capable and purposeful citizenry that is aware of its aspirations and able to meet them. An education system that achieves that will make efforts to break down the barriers between educational institutions, and between those institutions and wider society. The summer academy seems to be an excellent example of that approach, so we should all commend its work.

17:33

**Ms Wendy Alexander (Paisley North) (Lab):** I too begin by thanking Bill Butler for giving the summer academy some long overdue recognition. I also thank those in the gallery who have come through from Glasgow to join us this evening.

I should declare an interest because I am a visiting professor at the University of Strathclyde. One of the reasons that I chose to join that institution three years ago was because of how impressed I had been the previous summer when I had a chance to visit the summer academy. It was a real hive of activity.

As others have said, this is no marginal programme. There are now three academies, each of which lasts for two weeks, so more than 500 students from Scotland and furth of Scotland can get a taste of university life. It is also critical that the academy takes place at the transition between S2 and S3. That is vital in giving pupils the opportunity to think about raising their aspirations at that important stage in their schooling.

Obviously, creating a microcosm of university life does not come cheap. The places are largely funded by local authorities but it is right that we acknowledge the generous in-kind contribution made by the University of Strathclyde and so many of its staff and tutors.

I turn briefly to the bigger picture. Scotland can and should take credit for being the first part of the United Kingdom that reached the point of attracting 50 per cent of its school leavers into higher education. Under the Executive, we were also the first part of the UK to create an access premium, which is a financial arrangement that goes some small way towards recognising the true cost of supporting a student at university. I hope that the minister will examine how we can continue to improve our record on access and stay ahead of the game, as we have been in the past.

The summer academy is particularly important in the west of Scotland, where so many students stay at home and travel in to university every day. In such circumstances, they do not necessarily build a new social set, which means that if something goes wrong they are not on campus with friends and other sources of advice who can tell them where to look for support.

Other members have talked about the challenging aspects of the summer academy, but I suspect that part of its true success over the years lies in the fact that it tries to replicate some of the fun and exciting elements of university life. Looking at the academy's programme, I see that it offers a lunch time drop-in every day, at which students can enjoy relaxation techniques, live bands, guitar jamming, the climbing wall and so on—in short, all those things that make university life great fun.

I want to use the remainder of my speech to discuss what I think the next challenge is, because attracting students to university is not the only challenge; we want to make it more possible for them to stay once they get there. We know that we have not made enough progress on student retention over the years, so I want to share with members some of the successes that a local college in my area—Reid Kerr College—has had in holding on to students once they enrol and in making their life there easier. The Deputy Presiding Officer, Trish Godman, accompanied me on a recent visit to the college.

Reid Kerr College has thought about how to make it easier for students to stay once they have begun a course and is offering, for example, free nursery provision for one-parent families, financial assistance with travelling expenses, a comprehensive guidance and counselling service, an excellent careers service, alternative learning technologies for the disabled, free equipment toolkits that are available to students when they go

out on placement or to their first job and one-to-one core skills support if literacy or numeracy is an issue. I am told that cheap breakfast facilities are the most important of the various supports that the college provides; those measures are a genuine help in ensuring that students stay once they have arrived.

We are now learning how to reinforce the message that education is for all and is for life. Once they arrive at institutions, students need to be given positive feedback and encouragement of the kind that they get at the summer academy; they also need to have the chance to involve themselves in work-related activities so that they have a clear goal and a strong sense of the relevance of the studies that they are pursuing.

Historically, Scotland has had a reputation for a particularly democratic education system. That reputation was hard won; it was not gained by accident. Over the centuries, many people have contributed to the winning of that reputation. If we are to continue to stay ahead of the game in the future, it is important that we give national recognition to initiatives such as the summer academy that have a valuable and proven success record that deserves to be recognised here and elsewhere.

17:38

**The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson):** I thank—as is customary on such occasions—Bill Butler for giving us the opportunity to debate the summer academy. I have known Bill for very many years—more years than I care to recall, in fact—and tonight's motion is a classic example of his lifelong commitment to education, education, education. It gives us an opportunity to discuss the Executive's widening participation policies, to which Wendy Alexander has referred.

As we have heard, higher education institutions and colleges in Scotland have developed programmes that are designed to build a more inclusive approach to learning. Through the aimhigher Scotland campaign and through the greater opportunity of access and learning with schools project and the local employment action plans in Scotland project—the GOALS and LEAPS projects—we are able to promote and explain higher education for those who come from families whose members have no history of entering higher education and those who, for whatever reason, do not think that higher education is for them. Those initiatives, which include the summer academy @ Strathclyde, allow young people to sample university life, as Wendy Alexander has just outlined, and enable them to make informed choices that will affect not just their own futures, but the collective future of Scotland as a nation

and our future economic development. It is in that context that I will address widening participation in higher education, which Wendy Alexander and Patrick Harvie mentioned.

The Scottish Further and Higher Education Funding Council allocates funds for activities that are designed to widen access to HE. Those funds include additional funding for part-time and disabled students; for improved routes from college into university; and for collaboration through the wider access development grant—Wendy Alexander will be familiar with all those elements. The grant funds the national co-ordinator for wider access, supports the development of universities' wider access strategies and funds the regional forums across Scotland that share good practice and improve collaboration between colleges and universities.

As members know, the Scottish Further Education Funding Council and the Scottish Higher Education Funding Council merged on 3 October. I am sure that Wendy Alexander agrees that the merger gives us an excellent opportunity to modernise tertiary provision and increase the scope for partnership working between colleges and universities. That, in turn, will diversify and widen the student body and—critically—ensure that learning opportunities are available to everyone. Again, I am sure that all members in the chamber subscribe to that.

If an individual has the potential, we should encourage them to reach it. We must break down the barriers that prevent individuals from continuing in their education. We must ignite the desire and aspiration that lives in all of us to seize opportunities so that every man and woman in Scotland can make the most of their potential. In that context, we should be encouraged by the number of young people who enter higher education each year—almost 50 per cent of Scots participate in higher education by the time they are 21.

Interestingly, almost a third of those students come from the 40 per cent most deprived areas in Scotland. That is tremendous progress; indeed, it is a significant achievement for those who in the past would never have considered the—dare I say it—elite universities to be appropriate for them. That said, we are not complacent; we know that we have more to do.

That point takes me to parity of esteem. In recognising the steps that higher education institutions are taking, we must not forget the important contribution of Scotland's further education colleges. I am sure that the Deputy Presiding Officer agrees with that. Our colleges promote social inclusion and community learning: in 2003-04, 27 per cent of their students came from areas of high deprivation. Wendy Alexander referred to that.

Our colleges offer a supportive environment and a quality learning experience. They also partner with other key sectors and agencies, including schools and universities, and they offer learners progression opportunities in both the labour market and further study. Sixty per cent of Scots who enter into higher education for the first time do so through our colleges. That statistic is one that none of us should treat lightly.

Our colleges also offer opportunities for early school leavers by encouraging them to further their education and develop their skills. Employers tell us that they need relevant job-related skills, but they also tell us that the so-called soft skills such as communications and team working are more important, as are literacy and numeracy. Colleges help their students to be employable through both job-related skills and soft skills.

In the context of this debate, the Executive's school-college review offers the potential for an important transition from school to college for those of a vocational bent and others who see their future in vocational education but who also want to take the next step into academic qualifications.

As ever in these debates, time is limited. Before I close, however, I want to say a word or two about student support. Lack of money can be a barrier to learning. Through the Student Awards Agency for Scotland, the Executive offers financial support for students in higher education in the form of bursaries, loans and specific support for individual additional needs such as disabilities. We currently provide financial support for almost 95,000 higher education students throughout Scotland and the funding council provides similar bursary support to students in further education.

Student support funds are targeted to support students from low-income backgrounds and those with specific additional financial needs relating to dependent adults, dependent children and disabilities. That is an important part of the whole if we are to realise our ambition to ensure that educational opportunities are freely available to all.

There is not enough time to talk about international links, but suffice it to say that the world is becoming an increasingly small place and it is important that Scotland attracts talented students from overseas. In 2003-04, more than 27,000 overseas students from 180 countries across the world studied at Scottish educational institutions. We hope that, as well as studying in Scotland through our groundbreaking fresh talent scheme, many will choose to live and work in Scotland after graduation. That has important implications for our overall priority of growing the Scottish economy and making sure that Scotland is a good place to live, work and do business.

Widening access measures and local school and community links, as exemplified by the Strathclyde example, have a clear impact on admissions to further and higher education. We are moving in the right direction through initiatives such as the summer academy, the GOALS and LEAPS projects and the aimhigher programme. We have made good progress, but we cannot be complacent. We must continue to encourage every individual to fulfil their potential and we must break down barriers to learning. The initiatives and programmes discussed today provide the requested potential for models in the further and higher education sectors.

In that context, I am pleased to respond to Bill Butler's specific call, repeated by Wendy Alexander and Patrick Harvie, to look at the undisputed success of the Strathclyde summer academy to see what it can offer to the overall objective of widening participation and retaining people in higher and further education more generally, as another member mentioned, and to see how we can repeat that success throughout Scotland as appropriate.

*Meeting closed at 17:48.*





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