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Official Report

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Thursday 25 February 2016

Session 4

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Scottish Parliament

Thursday 25 February 2016

[The Presiding Officer opened the meeting at 11:40]

General Question Time

Decommissioning Jobs (Dundee)

1. Jenny Marra (North East Scotland) (Lab):

To ask the Scottish Government what progress it is making on securing decommissioning jobs for Dundee. (S4O-05584)

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): I welcomed last week's announcement from Forth Ports on its £10 million investment in the port of Dundee, which will put Dundee and the surrounding area in a strong position to maximise the economic and employment benefits that decommissioning—and indeed offshore wind—can deliver for Scotland.

The oil and gas strategy, which was published on 8 February, sets out how Scotland can play a leading role in the development of a global decommissioning market while recognising that all efforts must be taken to avoid premature cessation of production in the North Sea. With the latest industry estimates suggesting that around £50 billion will be spent on decommissioning in the North Sea over the next four decades, we must ensure that the decommissioning process is managed effectively and that the Scottish supply chain can capitalise on the value of those projects.

Jenny Marra: The announcement from Forth Ports was very welcome, as the cabinet secretary says. However, he will also have noted the comments from Charles Hammond, the chief executive of Forth Ports, saying that public investment is also needed. To that end, the First Minister told me last week that the city deal for Dundee is under discussion. Will the cabinet secretary give me an update on how his discussions with the United Kingdom Government on a city deal for Dundee are progressing?

John Swinney: The first part of the answer is that when the city deal develops, we will take forward discussions with the UK Government as we do for all such questions and as we did in relation to Glasgow and Aberdeen. We will continue those discussions as the details emerge.

Of course, a city deal that emerges will be part of the long-standing support that the Scottish Government has given to the city of Dundee through the substantial investment in the V and A

at Dundee and the long-term commitment to the development of the waterfront. Indeed, I was delighted to read in media reports just the other day the update on progress on the waterfront developments and about the success of opening up the city's much-transformed infrastructure to the wider public.

The Government will maintain strong support for the city of Dundee, as it has always done.

The Presiding Officer (Tricia Marwick): Question 2, from Alison McInnes, has been withdrawn for understandable reasons.

Medical and Humanitarian Aid (Syria)

3. Claudia Beamish (South Scotland) (Lab):

To ask the Scottish Government what support it is providing from its international development fund to assist with medical and humanitarian aid in Syria. (S4O-05586)

The Minister for Europe and International Development (Humza Yousaf): In October 2015, the Scottish Government provided £300,000 to support humanitarian assistance to refugees arriving in mainland Europe. The majority of our support went to the British Red Cross and Mercy Corps. A contribution was also given to two smaller Scottish-based charities—Edinburgh Direct Aid and Glasgow the Caring City. In January this year, we donated a further £75,000 to support the British Red Cross's medical response in Lesbos.

In 2013, the Scottish Government also donated £200,000 through the Disasters Emergency Committee for humanitarian assistance to those who were most in need, both within Syria and in the refugee camps in neighbouring areas.

Claudia Beamish: I thank the minister for that answer. I really wanted an update, so that is valued.

To what degree is it possible for the Scottish Government to identify—or has the Scottish Government already identified—Scottish charities that are able to work in Syria or in the wider middle east to help afflicted civilians within Syria now?

Also, what discussions have gone on with the United Kingdom Government about how the Scottish Government and the UK Government can work together on the issue?

Humza Yousaf: I thank the member for bringing the issue to the chamber because often it can be forgotten, with everything else that is going on. We are in the fifth year of that conflict, with 4.6 million Syrian refugees and more than 10 million internally displaced people in Syria.

To give credit where credit is due, the UK Government's response in terms of financial

contributions and aid to the region is the second best in the world.

On identifying Scottish-based charities, a number of charities come to us with proposals. We have not had a proposal recently, but when we have potential funding to give, I am always open minded about proposals to help in that region because it is a disastrous humanitarian situation—a crisis—and we are more than willing to help. If proposals do come our way, I promise the member that they will be viewed sympathetically and with an open mind.

Planning System Review (Consultation)

4. Gordon MacDonald (Edinburgh Pentlands) (SNP): To ask the Scottish Government how many responses it received to its consultation on the comprehensive review of the planning system, which closed on 1 December 2015. (S4O-05587)

The Cabinet Secretary for Social Justice, Communities and Pensioners' Rights (Alex Neil): The independent planning review panel received 392 responses to its call for written evidence, all of which are available to view online.

Gordon MacDonald: One of the contributors to the consultation was the south west (Edinburgh) communities forum, which represents seven community councils in my constituency. It made a detailed 12-page submission with a number of innovative ideas ranging from a low-cost right of appeal to statutory compensation for communities from developers.

Given the level of interest in the issue, are there any other ways in which individuals and communities can engage in the independent review before the panel reports later this year?

Alex Neil: The Scottish Government is currently hosting an online discussion forum on behalf of the independent panel. That will run until 29 February, and comments are welcome from any interested parties. The online discussion, in addition to the formal written and oral evidence, will be used to inform the review panel's thinking.

I understand that the Edinburgh Association of Community Councils is giving oral evidence to the independent panel today.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): Is the cabinet secretary aware that literally hundreds of my constituents are appalled at the decision of one Scottish Government reporter, against the unanimous view of the City of Edinburgh Council's planning committee, to allow the demolition of a much-loved restaurant at Canonmills in order for it to be replaced by an unattractive building that blocks a beautiful vista of the Water of Leith?

Will the cabinet secretary do everything possible to reverse that decision? More generally, does not he think that it is time to abolish the developer's right of appeal in circumstances in which a council planning committee has been unanimous in its decision?

Alex Neil: On the latter point, that is a matter for review by the independent panel, which is reviewing those kinds of issues. I hope that the member will have submitted either written or oral evidence to that effect if that is what he would like to see happening.

As far as the reporter's decision is concerned, it is not possible for me to reverse that decision.

The Presiding Officer: I call Cameron Buchanan.

Cameron Buchanan (Lothian) (Con): Sorry, Presiding Officer—my question has been answered.

Orkney Islands Council (Meetings)

5. Liam McArthur (Orkney Islands) (LD): To ask the Scottish Government when it will next meet Orkney Islands Council and what issues will be discussed. (S4O-05588)

The Minister for Local Government and Community Empowerment (Marco Biagi): On Monday 1, along with my ministerial colleague Derek Mackay, met the leader and chief executive of Orkney Islands Council as part of the latest island areas ministerial working group meeting. The Minister for Transport and Islands also met representatives of the council on Tuesday to discuss ferries issues.

Liam McArthur: Yesterday, the Cabinet Secretary for Finance, Constitution and Economy delighted in telling members in the chamber that every council in Scotland had accepted his plan to remove £500 million from their budget.

Does the minister accept that that was achieved only by strong-arming councils with threats of penalties and sanctions, which one senior independent councillor in Orkney described as "reprehensible ... Bully boy tactics"?

Does he agree with the leader of Orkney Islands Council, Steven Heddle, that

"Local government is a separate tier of democracy and should be afforded the respect to carry forward their own decision making"

rather than being threatened with a fine of £1.7 million?

Marco Biagi: I take the view that it is certainly far better, when asking local government to take forward key priorities, such as a living wage for every social care worker, protecting the council tax

freeze and maintaining the pupil teacher ratio, that we put money on the table to fund that, as we have done.

When we take into account the £250 million, the overall reduction in funding for local government is less than 1 per cent of total estimated expenditure. In light of the cuts that have been happening to the Scottish Government's budget since 2010, which come in part from a coalition Government that Mr McArthur supported, I think that the deal for local government has been very good. It is challenging, but it is fair.

With regard to freezing council tax, I note that, before the freeze, council tax in Orkney Islands Council increased by 116 per cent in comparison with a Scottish average of 62 per cent. I think that the people of Orkney will probably therefore welcome Scottish Government action.

Jamie McGrigor (Highlands and Islands) (Con): What actions has the Scottish Government taken to capitalise on Orkney's successful use of renewable energy and what steps have been taken to decarbonise the base-load for Orkney?

Marco Biagi: The issue of the interconnector from Orkney to the rest of Scotland so that Orkney can export renewable energy has been the subject of some debate in the islands areas ministerial working group and there have been discussions about that vis-à-vis the islands deal. Just this week, I have had meetings with developers in Orkney to discuss how we might be able to respond to calls for a different approach to building standards in Orkney on the basis of the large amount of renewable energy that is being generated.

We are very supportive of the amazing work that has been done in Orkney, which is very much a leader in the field of renewable energy. That is something that the whole of Scotland should be proud of.

Prostate Cancer (Treatment)

6. David Stewart (Highlands and Islands) (Lab): To ask the Scottish Government how many da Vinci surgical systems for the treatment of prostate cancer there are in Scotland. (S40-05589)

The Cabinet Secretary for Health, Wellbeing and Sport (Shona Robison): There is currently one robot, which is located in Aberdeen royal infirmary, to provide robot-assisted surgery for prostate cancer. The Queen Elizabeth university hospital in Glasgow is finalising a robot-assisted prostatectomy service, which is expected to be in place by April. A £1 million capital contribution from the Scottish Government has been committed for each of those robots. NHS Lothian has also been offered £1 million in capital to

support the introduction of a robot-assisted surgery service in south-east Scotland within the next two years.

David Stewart: A constituent from the Western Isles recently underwent surgery in Aberdeen for which the da Vinci robotic keyhole procedure was used. Three days after surgery for prostate cancer, he walked 2 miles, and he was off painkillers after four days. It is clear that the procedure has a transformative effect for patients. What plans does the cabinet secretary have to increase the numbers of da Vinci systems across Scotland to match the coverage in England and Wales?

Shona Robison: I am pleased to hear about the patient's experience that David Stewart highlighted. Boards are aware of the need to move away from providing open, radical prostatectomy and to work towards making minimally invasive radical prostatectomy the norm. The west of Scotland boards are developing their plans to introduce a robot in the summer of this year. As I said in my initial answer, NHS Lothian has been offered £1 million in capital to support the introduction of a robot-assisted surgery service in south-east Scotland within the next two years. Progress is being made, and I am happy to keep David Stewart updated on it.

Clydesdale Bank Flotation (Economic Impact)

7. John Mason (Glasgow Shettleston) (SNP): To ask the Scottish Government what analysis it has made of the economic impact in Scotland of the recent flotation of the Clydesdale Bank. (S40-05590)

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): Clydesdale Bank has an established presence in Scotland as a bank that services personal and business customers and as a substantial employer. We would expect it to continue to have a similar presence in Scotland following the recent flotation of shares on the stock market.

John Mason: Does the cabinet secretary agree that it is important to have independent Scottish companies that are headquartered in Scotland, as that has a positive impact on the quality of jobs in the wider economy?

John Swinney: I agree with John Mason. When headquarters functions are located in Scotland, it is clear that the knock-on effects for the quality of employment in supporting organisations, professional services and the wider community create strong opportunities for other organisations in the Scottish market. It is particularly significant that Clydesdale Bank has been one of the companies that have a strong presence,

principally in the city of Glasgow, but also in the city of Edinburgh. We look forward to working with Clydesdale Bank, as we always have done, to support it in ensuring that it makes a strong economic contribution to Scotland.

Renewables Sector (Support)

8. David Torrance (Kirkcaldy) (SNP): To ask the Scottish Government how it supports the renewables sector. (S4O-05591)

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): The Scottish Government provides a wide range of support for the renewables sector. That includes support for renewables projects and related technology development; a planning system that supports the transition to a low-carbon economy; and strong partnerships with industry, academia and the Scottish agencies, such as through the renewables industry advisory group.

David Torrance: Will the cabinet secretary provide an update on the Beatrice offshore wind farm project and how the tendering process is progressing? He will be aware that Burntisland Fabrications, which is based at the Fife renewables centre in my constituency, is looking to win a share of the contracts, which will be vital to employment in my constituency.

John Swinney: The Beatrice offshore wind farm project is a partnership between SSE Renewables, Copenhagen Infrastructure Partners and Repsol. The project was consented by Marine Scotland in March 2014 and granted an investment contract by the United Kingdom Government in May 2014.

Mr Ewing and officials from the Scottish Government, Scottish Enterprise and Highlands and Islands Enterprise have been working closely with Scottish offshore wind farm developers to ensure that the Scottish supply chain is used, and that has been the case in relation to the Beatrice project. There has been further dialogue with SSE about the use of the supply chain in Scotland and it has assured the Scottish Government that it is committed to providing opportunities for Scottish businesses to tender for such activity. It is, of course, essential that the tenders that are returned are competitive in order for them to be taken forward.

Any contracts that are awarded from Beatrice will depend on a positive final investment decision, which has yet to be taken.

Jenny Marra (North East Scotland) (Lab): How many of the 750 renewables jobs that the Scottish National Party promised to Dundee have been delivered?

John Swinney: The issue that we face in the renewables industry and in the development of the offshore sector is that the framework in which companies develop their propositions has taken longer to materialise, and changes in the United Kingdom Government's arrangements for such things have made that more challenging. In addition, it is clear to anyone who looks dispassionately at the issue that investment by renewables companies has been more challenging to secure and more challenging for those companies to commit to because of the changing environment.

I assure Jenny Marra, who I know has questioned the Scottish Government on the issue before, that the pursuit of jobs in the renewables industry for the city of Dundee has been an absolute priority for the Government. It remains an absolute priority, as does other investment for Dundee, which has been formidable from the Government, as I said in an earlier answer. I expect further investment to be delivered for the city of Dundee into the bargain.

Childhood Obesity

9. Claire Baker (Mid Scotland and Fife) (Lab): To ask the Scottish Government what action it is taking to tackle childhood obesity. (S4O-05592)

The Minister for Public Health (Maureen Watt): The Government is committed to tackling Scotland's issue with obesity through our strategy "Preventing Overweight and Obesity in Scotland: A Route Map Towards Healthy Weight". We recognise that there is no simple solution and we are pursuing actions across a broad front. An example of our work to make it easier for children to be more active is that we have increased the number of children who do two hours or two periods of physical education—the percentage increased from less than 10 per cent in 2004-05 to 98 per cent in 2015. We have also improved what children eat with our provision of free school meals.

Claire Baker: I welcome the minister's answer, but it is disappointing that Fife and Tayside still have stubbornly high numbers of children who are at risk of obesity and are classed as overweight. The Scottish Government's food commission has expressed support for a children's food policy that takes a much more strategic approach to children's diets. Does the minister agree that that approach is necessary if we are to achieve long-term cultural change?

Maureen Watt: I agree that we need to fund the child healthy weight intervention programme, and we will continue to fund it through the outcomes framework. That will provide greater local flexibility on decisions on how to maximise the value from the resource against clearly defined outcomes and

with a focus on delivering strategic priorities such as reducing health inequalities.

Elaine Smith (Coatbridge and Chryston) (Lab): Given that breastfed children are much less likely to present as obese, will the minister give an update on the Government's strategy to support and promote breastfeeding?

Maureen Watt: I continue to take a keen interest in that. In fact, I will visit another breastfeeding initiative in the west of Scotland in the next few weeks. We are clearly making progress, albeit that it is slow, on persuading more women to start breastfeeding.

The Presiding Officer: Before we move to the next item of business, members will wish to join me in welcoming to the gallery Mr Eitan Na'eh, who is Israel's chargé-d'affaires in the UK. [Applause.]

First Minister's Question Time

12:00

Engagements

1. Kezia Dugdale (Lothian) (Lab): To ask the First Minister what engagements she has planned for the rest of the day. (S4F-03244)

The First Minister (Nicola Sturgeon): I have planned engagements to take forward the Government's programme for Scotland.

Kezia Dugdale: Yesterday, the Deputy First Minister said that claims by trade unions about the number of job losses that will result from the Scottish National Party's budget cuts were "utterly exaggerated." Does the First Minister agree with her deputy?

The First Minister: I am glad that we are on the issue of claims. First, I say that any job losses in any sector are a matter of regret; that is why this Government has a policy of no compulsory redundancies.

John Swinney got something wrong in the chamber yesterday. He said that, based on the most recent figures, employment in the devolved public sector had gone down by 500. I have to tell the Deputy First Minister that that was a misreading of the statistics. Employment in the devolved public sector, according to the most recent statistics, has gone up by 500.

The reason why it is important to treat these issues seriously and not to be irresponsible in exaggerating is illustrated by something that Kezia Dugdale said in the chamber yesterday, which was repeated by Jackie Baillie. She said that Clackmannanshire Council was going to reduce the number of its jobs by 350. That is a puzzling claim, because Clackmannanshire Council's budget was set the day before yesterday and the actual number is less than a third of the one that Kezia Dugdale cited. [Interruption.]

The Presiding Officer (Tricia Marwick): Order. Let us hear the First Minister.

The First Minister: These are important matters. This is not an easy time for councils or the public sector, and it is not helped by Labour's wild scaremongering, which is more about its desperate fight for survival than it is about anything else.

Kezia Dugdale: The First Minister calls it "wild scaremongering". Here are the words of Willie McGonigle from Unite:

"We've lost 40,000 local government jobs since 2010 and over the next year we will likely lose a further 15,000 as a result of the Scottish Government's cuts ... To suggest

the Budget cuts will have 'a minimal impact on jobs or services' is frankly astounding."

Those are not my words but the words of the leading trade union in this country.

The casual disregard with which John Swinney dismissed those who are losing their jobs left many workers sick to their stomach yesterday. To hear the First Minister back him up today is even worse, because despite the pretence from the Government, the reality is that cuts are happening all across the country because of a choice that the SNP made.

SNP-controlled councils just this week passed plans to cut the number of staff in their schools. Now the First Minister disagrees with the trade unions and workers about the number of job losses. Will she tell us how many jobs she thinks will be lost as a result of the SNP budget?

The First Minister: I have just said that yesterday in this chamber, Kezia Dugdale exaggerated the impact in one council by a factor of three. The figures that she just quoted are not borne out by the reality of council budgets. In Aberdeenshire Council, where Labour is part of the administration, there will be a "minimal impact on jobs". Argyll and Bute Council says that it is "doing all possible" to keep the impact on jobs to a minimum. Aberdeen City Council, where there is a Labour administration, says:

"we are not looking at job cuts."

Kezia Dugdale has been caught red-handed exaggerating the position in Clackmannanshire Council. This is important, because these issues are serious and they deserve to be treated seriously. At the last First Minister's question time, Kezia Dugdale stood up and said that Perth and Kinross Council was going to cut childcare, help for those with additional support needs, early years teachers and maths and English teachers. Perth and Kinross Council set its budget later that same day. It agreed a budget for 2016-17 that has no reduction in early years teachers and no reduction in childcare, that maintains teacher numbers and that does not cut the additional support needs budget—it increases it by 6 per cent.

There is a gulf here between what Labour says in the chamber and the reality of what is happening across the country. Before we go any further with any more claims from Labour, I wonder whether Kezia Dugdale will take the opportunity to retract what she said yesterday about Clackmannanshire and what she said two weeks ago about Perth and Kinross. Both claims were flatly wrong.

Kezia Dugdale: The First Minister is trying to deny that there are cuts in education. We have seen 4,000—[*Interruption.*]

The Presiding Officer: Order. Let us hear Ms Dugdale.

Kezia Dugdale: We have seen 4,000 fewer teachers in this country since she came into office. She cannot reprofile that away.

The First Minister did not like hearing the truth from Unite, so let us see what she has to say about the GMB. [*Interruption.*]

The Presiding Officer: Order.

Kezia Dugdale: Gary Smith of the GMB in Scotland, which represents public sector workers—don't forget that, First Minister—has said:

"Government ministers need to take their heads out of the sand about the devastating impact of the cuts they are making on essential local services right across Scotland."

That is the reality.

Nicola Sturgeon is the first to line up to set up task forces and summits when jobs disappear in the private sector, but when teachers, classroom assistants and office staff find themselves out of work because of choices that she has made, she is nowhere to be seen. This afternoon, SNP-controlled Dundee City Council will vote on plans to cut the budget for supply teachers, on plans to close the high school and on plans to cut the budget for classroom materials. [*Interruption.*]

The Presiding Officer: Order.

Kezia Dugdale: For a decade, the First Minister has told us that more powers will mean fewer cuts, but when she had the chance to use the powers of this Parliament to stop cuts to schools and save jobs, she bottled it with her austerity budget. How many jobs need to be lost and how many cuts need to be made before this First Minister will finally use the powers that she has? [*Applause.*]

The Presiding Officer: Order.

The First Minister: Given that I have already demonstrated that what Kezia Dugdale said two weeks ago about Perth and Kinross was wrong and that what she said yesterday about Clackmannanshire was wrong, I think that people should take what she is saying today about Dundee with a pinch of salt.

It is interesting that Kezia Dugdale stands here and complains about a reduction in the number of teachers when yesterday in this chamber she joined forces with the Conservatives against a budget that expressly maintains the number of teachers. That is the blatant hypocrisy of Labour in the chamber.

Kezia Dugdale likes to quote people—well, let me quote a couple of her own colleagues. How about the Labour leader of East Lothian Council,

who should be familiar to Iain Gray? Earlier this month, he said:

“Our budget will enable us to invest in the ... future through increased provision for education and promoting the local economy.”

Or we could have the Labour leader of West Lothian Council, who said:

“we have a budget that focuses on and meets the needs of local people whilst protecting services that ... impact on the most vulnerable”.

Or we could go to Aberdeen. The Labour leader in Aberdeen has today joined forces with the Conservatives to issue a letter to every council tax payer there. That letter says that John Swinney’s budget is so dreadful that it has enabled Aberdeen City Council to

“protect frontline services and jobs for the people of Aberdeen”

and progress an

“ambitious”

and

“comprehensive plan which supports Education, new Infrastructure, roads, culture and prevention against flooding.”

Terrible John Swinney, enabling a council to do all of that. [*Applause.*]

The Presiding Officer: Order. Ms Dugdale.

Kezia Dugdale: The First Minister might like to remember that the Green Party—those notable right wingers at the back of the chamber—also voted against her budget yesterday. I will tell her what I voted against—[*Interruption.*]

The Presiding Officer: Order.

Kezia Dugdale: I voted against cuts to jobs, cuts to schools and cuts to local services.

Presiding Officer,

“no politician can be taken seriously about wanting to tackle poverty and inequality, unless they are also prepared to challenge the current Westminster model of austerity.”

Those are not my words; they are Nicola Sturgeon’s words. However, her budget yesterday used this Parliament as a conveyor belt for Westminster austerity. We were faced with a choice between using the powers of this Parliament to invest in the future or imposing more cuts on vital public services. When the First Minister knows that thousands of jobs will be lost and the impact that that will have on generations of young people, why on earth did she choose more cuts?

The First Minister: Not only do Kezia Dugdale’s claims bear no relation to reality, but I have debunked most of the claims that she has

made through a reference to the reality in Perth and Kinross, Clackmannanshire and Aberdeen.

I will outline to Kezia Dugdale exactly what she joined with the Conservatives to vote against yesterday. She and her colleagues—arm in arm and shoulder to shoulder with the Tories—voted against the record funding for the national health service; the doubling of the education attainment fund; the increased funding for social care services; the protection of the police budget in real terms; and the protection of apprenticeships. Perhaps most gallingly of all, given everything that the Labour Party has had to say on the issue over the past couple of years, Labour MSPs joined with the Conservatives to vote against a living wage for care workers.

A lot of quotes have been thrown around this chamber today, and I will end with one from Kezia Dugdale herself. When asked this week whether she will come second in the Scottish Parliament elections, Kezia Dugdale said, “Yes”, and I think that we have just seen why.

Ruth Davidson (Glasgow) (Con): And I think that even that might be in doubt.

Prime Minister (Meetings)

2. Ruth Davidson (Glasgow) (Con): To ask the First Minister when she will next meet the Prime Minister. (S4F-03245)

The First Minister (Nicola Sturgeon): No plans at present.

Ruth Davidson: I want to return to the growing crisis that is affecting our rural economy and which has been caused by this Scottish National Party Government. Yesterday, I received an email from Jim Walker, the former head of NFU Scotland. In it he said that he might have supported independence but that he

“could never support a party, a Minister or a Government who have been quite so incompetent and frankly naïve.”

He has written an article, to be published tomorrow, in which he says that the NFUS should call for the resignation of the Cabinet Secretary for Rural Affairs, Food and Environment and his director in the civil service.

Here are the facts: our rural economy is currently being starved of £500 million of funding because this SNP Government could not organise a payment system in time—a system that has already run £75 million over budget and still does not work. What will it take for the First Minister to get a grip?

The First Minister: It might be worth pointing out that, in the most recent common agricultural policy negotiations, the Conservatives argued for the scrapping of the direct support for Scottish and

United Kingdom farmers that we are talking about today. That is just a contextual point that is perhaps worth bearing in mind.

This is, obviously, an important and serious issue. We are continuing to do everything possible to get instalments out to as many farmers as we can by the end of March and to get the balance of payments out as soon as possible after that. As Richard Lochhead said in portfolio questions yesterday, the number is now approaching 50 per cent. We are reporting progress weekly to the Rural Affairs, Climate Change and Environment Committee and to the industry, and we are in fortnightly discussions about the situation with banks. Of course, when Richard Lochhead spoke to the NFUS, he announced a £20 million hardship scheme so that any farmer who has not had their payment and is not getting support from their bank can apply for hardship payments from the Scottish Government.

It is interesting to reflect on what the chief executive of the Scottish Crofting Federation said about the issue. He said:

“It is heartening to see the Scottish Government dealing with these challenging circumstances in such a creative way and the idea of the government being a lender, whilst not new, shows that they are doing everything they can to address this difficult situation.”

We are doing everything that we can, and we will continue to do so.

Ruth Davidson: The payments were supposed to be made by December, and it is now nearly March. Only the SNP could try to claim that such a failure is some kind of success.

I heard what the First Minister said, but the truth is that, if this was affecting urban Scotland or the central belt, the SNP would be all over it. Because it affects rural Scotland and the Borders, it has slipped off her radar. Let us be clear about this: it is a complete failure of Government, it is damaging people's livelihoods, it has now cost the taxpayer half of what it cost to build the Parliament building and it is still not fixed.

Jim Walker speaks for thousands of farmers and crofters who are looking for some action. It is clear that the cabinet secretary is part of the problem, not the solution. Is it not time that the First Minister stepped in and took personal charge of ensuring that our rural economy is led out of this crisis?

The First Minister: As I said to Ruth Davidson two weeks ago, the Cabinet has been discussing the matter on a weekly basis.

Ruth Davidson has just said something that is factually inaccurate. The European Union's window for the payments is 1 December 2015 to the end of June 2016. Therefore, the deadline for payments is actually 30 June 2016—that is the

reality. She also talks a load of nonsense about the cost of the information technology system, saying that it will cost half of what the Parliament building cost. It is an IT system to cover the entire seven-year programme of the CAP, and efforts are being made to ensure that it supports the payments.

We will continue to take the responsible action of making sure that we get payments to farmers as quickly as possible while also having the arrangements in place, through the hardship fund that I have spoken about, to ensure that any farmer who does not receive the payment or who cannot get support from their bank can come to the Government for that support. That is the right way to deal with what is a difficult situation, and we will continue to do that.

Fiscal Framework

3. Linda Fabiani (East Kilbride) (SNP): To ask the First Minister what progress there has been on the fiscal framework negotiations. (S4F-03262)

The First Minister (Nicola Sturgeon): Good progress. As I reported to Parliament on Tuesday, there is now an agreement in principle that I think we can recommend to Parliament. Draft heads of agreement will be published by the end of this week. The agreement that we have reached on the block grant adjustment ensures that there will be no detriment for the next six years and that, after that, there can be no default by the United Kingdom Government to a funding model that would deliver detriment. In other words, the deal will not allow a single pound or penny to be taken from our budget but will ensure that the funding for Scotland cannot be changed without our agreement. It protects the Barnett formula and will allow new powers to be delivered.

Linda Fabiani: The First Minister is aware that, when the Deputy First Minister and I served on the Smith commission, we achieved unanimous agreement that the Scottish Government and the UK Government were equal partners in any negotiations. Will the First Minister confirm that that parity of esteem was respected during the fiscal framework negotiations that have just been completed and that it will be maintained? Does she agree that equal partnership in any negotiation is crucial to protect Scotland's future interests?

The First Minister: I believe that that is absolutely vital. That parity of esteem and equal partnership meant that we were able to resist an attempt by the Treasury to cut our budget by £7 billion. Had we not had that, the Treasury would have been able to impose that cut. Equal partnership meant that John Swinney's superior negotiating skills could come to the fore and protect Scotland's budget.

Linda Fabiani raises a serious point about the future. Not only did equal partnership allow us to protect Scotland's budget; making sure that equal partnership and the requirement for joint agreement are built into the arrangements for the review after the first five years will be essential to ensuring that we can protect Scotland's budget in the future, which is exactly what we intend to do.

Gavin Brown (Lothian) (Con): The agreement was rightly welcomed on all sides of the chamber. However, one part of the agreement was getting the Scottish Fiscal Commission to do the official tax forecast, which is a vital step forward. Will the First Minister work with me to convince her back benchers that that is the way to go?

The First Minister: The very thought of working with Gavin Brown is bringing me out in a cold sweat, but I will try to get over that.

As I said on Tuesday, we have had to give and take in the negotiations, which should be welcomed as part and parcel of a mature negotiating process. An area where John Swinney has agreed to a concession is the arrangements for the Fiscal Commission. I know that he has given some detail on that, and more details will be in the heads of agreement when they are published before the end of this week. Overall, it is a good deal, which everybody across the Parliament should welcome.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I congratulate the Deputy First Minister and the First Minister on securing the deal. In the First Minister's statement on Tuesday, she said that the block grant adjustment would be based on an annual adjustment to a Treasury methodology, which now appears to be tax capacity adjusted levels deduction. Is she absolutely certain that an annual population adjustment to that methodology will produce the same result as per capita indexation?

The First Minister: Yes, and that is critical to the agreement. When the heads of agreements are published, Malcolm Chisholm and everybody else will see that we have agreed to a method of making the block grant adjustment that is required over the transitional period that will deliver the same outcome as per capita indexed deduction.

I take the opportunity to thank Malcolm Chisholm for his support on the issue. Even before Labour's official position was to support the Scottish Government's position, Malcolm Chisholm was steadfast in saying that the Scottish Government was correct. His support, along with that of the Scottish Trades Union Congress, for example, and many others was helpful to us in getting to the agreement that we struck on Tuesday. I accord Malcolm Chisholm my thanks for that.

Accident and Emergency Waiting Times

4. Bob Doris (Glasgow) (SNP): To ask the First Minister what progress the Scottish Government is making in reducing A and E waiting times. (S4F-03260)

The First Minister (Nicola Sturgeon): The latest published monthly performance for December 2015 shows that accident and emergency performance across Scotland was at the highest level that we have seen in any December since 2009, and that Scotland is the best performing country in the United Kingdom. For core sites in December 2015, A and E waiting times performance was 94.5 per cent in Scotland compared to 86.6 per cent in England, 76.9 per cent in Wales and 70.9 per cent in Northern Ireland.

However, there is still more to do to ensure continued progress in A and E performance in Scotland. We launched the six essential actions approach in May last year. That two-year programme aims to minimise long waits in A and E and immediate assessment units by improving patient flow throughout all hospital areas and back into the community. We have also provided additional winter funding of £10.7 million to support boards through winter pressures.

Bob Doris: I am sure that Parliament would like to thank national health service staff for their hard work and dedication, and for the impressive improvement that we have seen in waiting times, which has been boosted by a 178 per cent increase in the number of A and E consultants under this Scottish Government.

With Scottish A and E performance now clearly the best in the UK—comparing favourably with Labour-run Wales and the NHS in England, where the Tory health minister is too busy picking fights with junior doctors—does the First Minister agree that a partnership approach, as opposed to conflict with health professionals, is key to building on that success? Would the First Minister also welcome health professionals from elsewhere in the UK, should they wish to make a positive choice and bring their skills to the Scottish NHS?

The First Minister: I would certainly welcome health professionals from anywhere who want to come to work in Scotland.

Bob Doris raises points that are important to patients across the country. We have work to do in A and E—I would not for a second stand here and say that it is “job done”. However, two things should give us encouragement. First, our A and E waiting times are, I think, almost week-for-week better than they were in same period last year. Secondly, we see that compared with the UK's other nations, our A and E departments are performing much more strongly than they are.

That is good and positive news, but we will not be at all complacent and will continue to work with health professionals to ensure that we improve performance even further.

Jim Hume (South Scotland) (LD): I am glad that the First Minister mentioned not being complacent, because last week saw the worst A and E performance in Scotland since weekly statistics began, with one in 10 patients not being treated within four hours and only four health boards meeting their targets. Will the First Minister explain why that happened and will she promise to support our hard-working NHS staff?

The First Minister: Figures fluctuate week on week, and there will be a variety of reasons in different hospitals why that is the case. I think that everybody will understand that.

Jim Hume talked about the most recent weekly performance which, incidentally, saw nine out of 10 patients across our A and E departments being treated within four hours. Obviously that weekly performance was lower than we want, but it was, nevertheless, 3 percentage points better than performance in the same week last year. That underlines the point that I am making: we are seeing consistent improvement in each week compared to the same week in the previous year. That is good. As I said, our accident and emergency units are performing much better than those in any other nation in the UK.

I am standing here giving the information, but that performance is entirely down to the hard work and dedication of the people who work in our accident and emergency units. This is probably an appropriate moment for me to thank them again for all the work that they do.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): We all thank the staff for their hard work.

The First Minister mentioned immediate assessment units. A freedom of information request that I have made has shown that there are now 30 such units with 15 different names, that there is no common protocol, and that there is no monitoring and no reporting. Unlike in A and E, targets range from the four-hour target to no target. NHS Greater Glasgow and Clyde reported that patients

“could expect to wait twelve hours”.

There have been 115 deaths in those units, which are the alternative doorway to A and E.

A and E statistics mean something only if we combine them with statistics from the immediate assessment units. What progress are the First Minister and the Cabinet Secretary for Health, Wellbeing and Sport making on ensuring that there are proper protocols for immediate

assessment units so that we can have transparent figures on admissions?

The First Minister: The immediate assessment units—many of which were established under the previous Labour Administration, which is a good thing—are different from A and E units, which is why they are treated differently. Patients in those units often receive treatment and not just the tests and monitoring that they would receive elsewhere. However, the guidance to health boards—this is important—is that patients who are on trolleys awaiting admission in an assessment unit should be monitored against the four-hour A and E target until they are admitted to a bed or a dedicated area.

We are also working with the Royal College of Physicians of Edinburgh to share best practice across the assessment units, including sharing information on monitoring. We will consider with the Royal College of Physicians of Edinburgh whether assessment units should be subject to more common standards.

Richard Simpson raised the important issue of deaths in hospital. I do not seek to underplay that point but, for context, it is worth pointing out that hospital mortality rates in Scotland are now at their lowest since records began and have dropped by 16.5 per cent since 2007. That is another example of the excellent work that our health professionals around the country do.

Nursery Education

5. Ken Macintosh (Eastwood) (Lab): To ask the First Minister what assessment the Scottish Government has made of the impact of the local authority budget settlement on nursery education. (S4F-03249)

The First Minister (Nicola Sturgeon): Within the financial settlement for local government, we are funding the additional costs of early learning and childcare provisions under the Children and Young People (Scotland) Act 2014. That includes the expansion to 600 hours and the extension to more than a quarter of two-year-olds. So far, we have provided £329 million to fund that expansion and have committed a further £170 million in the 2016-17 budget. That covers the first three years of the expansion from August 2014, and we have committed to continuing to increase revenue funding year on year until 2019-20 to enable local authorities to provide more choice and flexibility.

I will meet local government leaders and key partners this afternoon at the early learning and childcare summit to discuss how we will continue to work together to deliver those commitments.

Ken Macintosh: The First Minister will know that, earlier this month, the Educational Institute of Scotland revealed that in the nine years of

Scottish National Party Government the number of teachers in Scotland's nurseries has fallen by a quarter. Therefore, many of us were intrigued and encouraged by her pledge at the weekend to increase the number of nursery teachers. It is clear why we were encouraged, but we were intrigued because, when Ms Sturgeon was first elected in 2007, her party's manifesto said:

"We are concerned at the removal of nursery teachers from nurseries"

and she pledged to maintain teacher numbers. What has changed? Is it that she did not mean her promise then but means it now, or does she have some other explanation?

The First Minister: The registered day childcare workforce has increased by 7 per cent. [*Interruption.*]

The Presiding Officer: Order.

The First Minister: Ken Macintosh referred to an announcement made at the weekend. I do not know whether he just missed it, but I actually made that announcement back in October last year.

As part of our effort to ensure that we tackle the attainment gap, I have given a commitment that all nurseries in deprived areas will have an additional teacher or graduate with early learning and childcare expertise working with the young children. That is an important commitment as we not only use the expansion in quantity of childcare but improve the quality of childcare to ensure that we give every young person the best start in life.

Prestwick Airport

6. Patrick Harvie (Glasgow) (Green): To ask the First Minister what discussions the Scottish Government has had about the relationship between Prestwick airport and the Trump Organization. (S4F-03263)

The First Minister (Nicola Sturgeon): Prestwick airport operates on a commercial basis. The Scottish Government has had no discussions on the relationship between the airport and the Trump Organization. The senior management team at the airport is responsible for developing business opportunities and we expect it to work closely with local businesses to explore all avenues.

I was pleased to hear Ryanair's announcement on Tuesday that it will introduce three new routes for winter 2016 and increase passenger numbers at Prestwick by 75,000.

Patrick Harvie: For many years it has been clear—to anybody who cared to take an interest—that Donald Trump is an arrogant and racist bully. When Nicola Sturgeon rightly took the decision to

kick him out of the globalscot network, I thought that the Scottish Government had come to regret having ever courted his business. However, it appears that Prestwick airport, which is publicly owned by the Scottish Government, is now pursuing an official partnership—a strategic alliance—with the Trump Organization. Does the First Minister agree that the owner—most especially a Government that exists to serve the public interest—of any business must ensure that that business cuts ties with such a dangerous extremist?

The First Minister: I say first that although I would probably use more diplomatic language, I suspect that my views on Donald Trump are not materially different from Patrick Harvie's.

It is important to be very clear that there is no contractual relationship between Glasgow Prestwick Airport and Donald Trump or any of his organisations, including Trump Turnberry. European state-aid rules require that the airport is operated on a wholly commercial basis, at arm's length from the Scottish Government. We are not permitted to intervene in the commercial discussions of the airport.

We brought the airport into state ownership to save it from closure, and it is making progress. As I said in relation to the Ryanair announcement, the management is making progress. It is getting the airport onto a better footing, and I think that we should get behind it as it continues to make those efforts.

The Presiding Officer: We move on to the next item of business. Members who are leaving the chamber should do so quickly and quietly, and people who are leaving the gallery should vacate as quickly as possible. I will give a few moments for that to happen.

Israel (Cultural Engagement)

The Deputy Presiding Officer (John Scott): I inform members that we are expecting quite a significant number of guests, so we will extend to them the courtesy of allowing them to come into the public gallery before we start.

The next item of business is a members' business debate on motion S4M-15573, in the name of Jackson Carlaw, on Israel needs cultural bridges, not boycotts. The debate will be concluded without any question being put.

Motion debated,

That the Parliament acknowledges the recently published open letter signed by over 150 high-profile cultural and political figures in support of the aims of Culture for Coexistence, an independent UK network representing a cross-section from the cultural world; notes that this open letter calls for an end to cultural boycotts of Israel and Israeli artists; notes the views expressed in the letter in support of a two-state solution and the promotion of greater understanding, mutual acceptance and peace through cultural engagement; notes that one example of this cultural exchange took place in 2015 when the Israeli artist, Matan Ben-Cnaan, won first prize in the 2015 BP International Portrait Award and was given the opportunity to teach art to local school children at the opening of the exhibition at the National Portrait Gallery; hopes that, through groups such as the Centre for Scotland and Israel Relations, based in East Renfrewshire, similar educational and cultural programmes will take place in the coming months, and notes the views expressed in the letter that "Cultural engagement builds bridges, nurtures freedom and positive movement for change. We wholly endorse encouraging such a powerful tool for change rather than boycotting its use".

12:39

Jackson Carlaw (West Scotland) (Con): I am proud and delighted to speak to the motion in the Parliament of Scotland, and I am delighted that present in the gallery are the *chargé-d'affaires*, Eitan Na'eh; Ms Loraine da Costa, who is chair of culture for coexistence; Stanley Lovatt, who is the honorary consul for Israel in Scotland; Philip Mendelsohn and Ephraim Borowski, who are leading figures in Scotland's Jewish community; Ruth Kennedy of the centre for Scotland and Israel relations; and many other friends and members of the Jewish community in Scotland, many of whom are visiting Holyrood for the first time. I want them to know that they are very welcome in Scotland's Parliament.

I am delighted, too, to speak to this constructive and positive motion in support of Scotland's Jewish community—a motion that directly concerns our approach to Israel. I do so against a background in which it is easy to understand why many in the Jewish community have become deeply concerned that their devolved Parliament—Scotland's devolved Parliament—has tabled some

371 motions on foreign countries, 62 of which concern Israel and 36 of which have been strongly condemnatory. To that I will return.

I start, though, with an unapologetic "Why?" Why have the debate at all? I grew up in Newton Mearns in East Renfrewshire, a southern residential suburb of Glasgow. The late Ralph Glasser, in his extraordinary biographical quadrilogy, which began with "Growing Up in the Gorbals", tells the story of Jewish migration to Scotland and Glasgow at the start of the previous century and how, in the post-war years, many in the Jewish community migrated from Glasgow to East Renfrewshire, quickly becoming a significant population.

Next door to me were the Maitlis family; next to them, the Greens. Across the road from them were the Davidsons and the Cohens and, along the road, the Marcos and the Kleinglasses. Across the street were the Roses, the Fells and the Chuwens. To have Jewish families in my community was an everyday part of my life. They were my friends and neighbours. Yet a community of some 47,000 families just after the second world war is probably about 20 to 30 per cent of that today.

In addition, and this is not at all well understood, Scotland is home to a separate Israeli community of some 1,000 people. All of that is important, because the feeling of alienation, isolation and vulnerability felt by many in those communities, to the point at which significant numbers are saying, for the first time, that they are considering leaving Scotland, is born, in part, out of the casual ignorance about the community that is expressed in many parts of Scotland.

I am a proud Glaswegian—proud to be Scottish and British, too. Do I support everything that is ever said or done in the name of Glasgow, Scotland or the United Kingdom? Of course not. But do I then equate differences that I may have with any particular city or country with the people of that city or country? No, I do not. And yet, in Scotland, too many have articulated slogans and narrow partisan campaigning tactics against Israel to such an extent and, occasionally, in such a manner, as to stray, albeit sometimes inadvertently—though sometimes deliberately—into the language of anti-Semitism. Some overtly personally blame "the Jews"—a term, in that context, used pejoratively—for the actions of a foreign Government, while seemingly questioning the right of Israel to exist at all.

That is all the more disturbing when we appreciate that the UK Jewish community has a very strong attachment to the state of Israel. A 2010 survey by the Institute for Jewish Policy Research showed that an extraordinary 95 per cent of UK Jews have visited Israel and that 90

per cent view Israel as the ancestral home of the Jewish people. I gladly applaud the direct intervention of the First Minister, who recently said:

“There is nothing that happens in Israel or Palestine that can be justification for antisemitism or any racial or religious hatred. That is a point that has to be made at every level of Scottish society very, very strongly.”

My motion advocates and supports a different course because, beyond the conflicts, Israel is a great nation, which will celebrate its 68th independence day this year. Since 2004, Israeli scientists have won five Nobel prizes—a tally bettered only by four other nations. Between them, Israeli scientists and others produce some 16,000 key technical journals—more than the entire Arab world combined. Israel is a country of invention. Last year in the United States, Israelis lodged some 1,900 patents—just below two nations of far greater populations. Among those, Israel is number 1 in the world per capita for medical device patents and biotechnology patents. Among the other inventions that we use every day is the USB flash drive—how inconvenient to many if we were all to boycott that.

In recent years, the BDS—boycott, divestment and sanctions—movement has become an aggressive and strident opponent. It has thought nothing of bold intimidation and disruption, which has led to the cancellation of events that involve Israeli artists or benefit from Israeli sponsorship in Scotland, as seen for example at the Edinburgh festival fringe in 2014. That has carried beyond, particularly among an impressionable youth, on to the campuses of some of our great universities. More than once, and increasingly often, I am hearing first hand of distressed Jewish students who have been directly targeted personally or had events disrupted.

What does that achieve? What consequences could follow? By way of illustration, I touch on two specific cultural activities in Scotland. The Aberdeen international youth festival has enjoyed a biannual visit from the Israeli Kiryat Ono Youth Concert Band. Its conductor, Guy Feder, said:

“If we were stopped from coming, it would break the very essence of what we aim for. Music is a universal language. It crosses borders and creates bridges. It is a field in which we can overcome our daily disagreements and do something beautiful together.”

This month, as his exhibition ends at the National Portrait Gallery here in Edinburgh, Matan Ben Cnaan, winner of the BP Portrait Award 2015, said:

“As I see it, the majority affected by the boycott are individuals, artists, scholars, scientists, most of them are private people who don’t represent any official authority, but do represent a variety of thoughts and political views”.

Presiding Officer, my motion is expressly about the benefits to peace and understanding of cultural bridges, not boycotts. Duty requires us to be responsible. A seeming obsession with traducing Israel and its very right to exist and the unthinking conflation of Israel and the Jews undermines the security and wellbeing of Jewish people in Scotland. Anti-Semitism is not only the abuse of Jewish individuals, but the treating of Jewish organisations, including the Jewish state, differently from others.

I understand and have heard directly the aspirations of Palestinians, and I am not today seeking to pretend that this debate can solve a conflict that has defied the ages. However, I recognise Israel as the one genuine parliamentary democracy in the region, and I celebrate that fact.

There is clearly room for legitimate and passionate debate, but Scotland’s role should be consistent with our traditions and ambitions. Our democracy must be an example of reasoned, well-informed argument and debate. We should not allow ourselves to shut down debate, to shout down one side, to shout down democracy.

I started my speech with my experience of growing up in Newton Mearns and of my childhood friends and neighbours. It is a small world. Many these years later I found that one of my sons was “stepping out”—to use an old-fashioned idiom; he has been for some five years now—with the daughter of one of those Jewish friends who lived across the street. I am proud that that is possible in Scotland. As the First Minister said,

“I don’t want to be the First Minister, or even live, in a country where Jewish people want to leave or hide their identity”.

This Parliament’s record of acknowledging the Holocaust annually is a deservedly proud one. It must never become simply a box-ticking annual exercise that leaves any one of us free to talk pejoratively the rest of the year about Israel or to allow ourselves or ignorance to become a cover for anti-Semitism.

In that context, I think that a refreshing of our approach to Israel is overdue. Let us reach out and through cultural exchange and debate demonstrate what we can achieve and what boycotts and anti-Semitism cannot.

The Deputy Presiding Officer: Before we move on, I would like to advise members that, in view of the number of members who wish to speak in the debate, I am minded to accept from Jackson Carlaw a motion, under rule 8.14.3, that the debate be extended by up to 30 minutes.

Motion moved,

That, under Rule 8.14.3, the debate be extended by up to 30 minutes.—[*Jackson Carlaw.*]

Motion agreed to.

The Deputy Presiding Officer: I call Stewart Maxwell, to be followed by John Finnie. You have four minutes or thereby.

12:48

Stewart Maxwell (West Scotland) (SNP): I congratulate Jackson Carlaw on securing time for a debate on this important subject.

The Israeli-Palestinian conflict is a very difficult and fraught subject, and feelings run very high. It is natural that people should look for a way to help end this very painful division, and a cultural boycott is a way of bringing moral rather than physical pressure to bear.

Certainly there is nothing to stop any one of us from choosing where we spend our money. We may choose not to buy certain products or to attend certain events, and no one can stop us—that is our right. People are free to choose and I support that freedom to choose.

It is also our right to try and persuade other people that our view is the correct one and to try to win others over to our way of seeing the situation. However, here I express a concern about the way that this call for a cultural boycott is being pressed forward. It seems to me that what is being called for is not just that individuals exercise their consciences but that there be a refusal to allow other people to make a different decision. I confess that that worries me.

For example, in 2012 the Batsheva Dance Company was picketed at the Edinburgh Festival. It is the right of individuals in a free society to make their feelings known to those who were attending the event. I certainly support the right of individuals and groups to picket outside a performance. It is the mark of a healthy and free society in which different opinions can be expressed.

However, inside the hall, the performance was disrupted by protesting individuals. To my mind, that went too far. It is one thing to engage with people who are attending a performance and suggest that they should not do so. It is quite another to impose one's point of view on all those who take a different point of view and have chosen to attend. That is not discussion or debate; it is an attempt to shut down discussion, to silence those who do not agree with a view, and I do not support that.

As well as being long-standing and painful, the Palestinian-Israeli conflict is nuanced. Like most of life, the situation is not black and white. There is no doubt that many Palestinians suffer greatly, but so do Israelis, not just from rockets being fired into civilian areas or suicide bombers on buses, but

from the recent spate of knife attacks and car rammings that have occurred in Israel. Innocent people on both sides suffer.

If we wish for a peaceful solution, which I know we all do, we cannot ignore the feelings that are evoked by the suffering on both sides. We cannot afford to silence one of the voices in this tragic situation. I do not believe that that will lead to peace in the long-term.

The cultural world is also divided over the subject of a boycott of Israeli institutions and organisations that are funded by Israeli institutions. Some artists are greatly in favour of a boycott and some are strongly against it. One thing that does concern me about the discussions on the conflict is the underlying feeling that there is bad faith on the part of those who do not wish to support a cultural boycott of Israeli artists, poets and actors.

I do not think that anyone in Parliament does not believe strongly in a two-state solution for Israel and Palestine, with both states being thriving democracies with free citizens living in peace and harmony with each other and the rest of the world. I know that we all hope for that. We might disagree on the route, but the hoped-for destination is the same for us all, and I firmly believe that the best way to secure that longed-for peace is to keep open as many avenues for engagement and dialogue as possible, and cultural events are one way of doing that.

The Deputy Presiding Officer: Before I call Ken Macintosh, I ask for the public's help in that there should be no audience participation in the proceedings of Parliament. Thank you for your consideration of that matter.

I now call Ken Macintosh to be followed by John Mason.

Members: You called John Finnie before.

The Deputy Presiding Officer: I beg pardon—my mistake. I call John Finnie to be followed by Ken Macintosh.

12:52

John Finnie (Highlands and Islands) (Ind): First, I apologise to you, Presiding Officer, and to Mr Carlaw because the Justice Sub-Committee on Policing is meeting at 1.15 so I might have to leave before the end of the debate.

I declare my membership of the Scottish Palestinian solidarity campaign and the Scottish Green Party, whose mantra is people, planet and peace. Peace and security can be achieved only through global justice and the world will never be safe while we allow the obscenity of poverty,

economic exploitation and illegal occupations to continue.

I turn to the issue of boycott, divestment and sanctions. Mr Carlaw's motion is misleading because there is no boycott of Israeli artists such as Matan Ben Cnaan, as long as artists refuse to collude in the Israeli abuse of human rights. There is a boycott of the Israeli state and those who seek to normalise the occupation of Palestine.

The Scottish Green Party supports the Palestinians' call for boycott, divestment and sanctions against Israel, including a boycott of Israeli goods and services and an academic and cultural boycott, until Israel fulfils its obligations under international law. Those obligations are: withdrawing to the pre-1967 borders; withdrawing from east Jerusalem, the Golan Heights and other land that was seized in 1967; withdrawing from and depopulating Israeli colonies in the West Bank; dismantling the separation wall; ending the siege of Gaza; granting the right of refugees from 1948, 1967 and other expulsions and their descendants to return to their homes, as required by United Nations resolution 194; and affording equal rights to all citizens within Israel, irrespective of religion or ethnicity, especially Palestinian citizens in Israel.

If I am accused of anti-Semitism because I am speaking like this, I have to say that I have no allegiance to any faith nor would I be critical of any faith.

The Scottish Green Party will campaign for and support divestment by local authorities, other institutions of government—including the local government pension scheme—and civil society organisations from Israel, Israeli companies and companies that support the Israeli Government's illegal occupation of Palestine.

The Scottish Green Party supports the Palestinian non-violent struggle resisting the colonisation of their lands, resources and peoples by Israel and by Zionist settlers.

The Scottish Green Party will press for European Union legislation to prohibit the import into the EU of products from Israeli settlements in the West Bank.

The Scottish Green Party will work with solidarity groups within Scotland and with political parties and civil society organisations within Palestine and amongst the Palestinian diaspora that share our objectives.

The motion talks of a culture for coexistence; we cannot have that when there are apartheid walls. It talks of greater understanding, but is there an understanding of an imprisoned population? It talks of peace through cultural engagement. I love peace, I campaign for peace, I encourage peace

and I condemn violence from whatever quarter—I hope that all other participants in the debate would do likewise.

I want to encourage equality. I support conflict resolution but peace came in the north of Ireland not when the walls went up but when the walls came down. I spoke to someone who was involved in the violence in the north of Ireland and he said, "We killed each other, we maimed each other, we injured each other, and we damaged each others' property—nothing changed until they bombed the city of London."

I am not condoning violence from any quarter, be that violence against individuals or violence against property, but there is no doubt that financial imperative can shape minds and change opinions, so I am four-square behind the boycott, divestment and sanctions.

12:56

Ken Macintosh (Eastwood) (Lab): I thank Jackson Carlaw for securing this members' business debate. Given the disproportionate number of anti-Israeli motions laid in the Parliament, we may not redress the balance today but I hope that we show that Scotland is not universally hostile to the state of Israel; that we recognise the incredibly difficult task of securing peace in the middle east; and that we demonstrate our own commitment to ethnic and religious tolerance, to cultural understanding and to supporting our own Jewish community here in Scotland—I will return to that last point in my concluding remarks.

I do not pretend to be an expert on Israel but I do consider myself to be a fair-minded person. In particular, I consider myself to be sympathetic to those who are suffering in any way. I would defend the right of any Scot to speak up for the Palestinian people and to plead their cause. However, at some point over recent years, support in Scotland for the plight of the Palestinians has turned into hostility against Israel—hostility that I believe is one sided, inaccurate and, in the end, incredibly unhelpful and damaging for all concerned.

Those who support the boycott, divestment and sanctions campaign constantly refer to Israel as an apartheid state—a description that is as unfair to the struggle of the anti-apartheid movement as it is to those Israelis who fight to defend democracy, freedom of expression and the rule of law.

I wonder if any of us can imagine what it is like to wake up every morning in a country that is surrounded by neighbours who do not recognise our right to exist or where many are pledged to obliterate us. Despite that, in Israel, human rights

are protected and Arabs, Jews, Christians and Druze alike are elected to Parliament, serve in the army and hold high legal office.

In some countries nearby, women are not even allowed to drive unaccompanied and people are thrown from tall buildings to their death for the crime of being gay. Yet Israel, almost alone in the region, opposes all forms of racial segregation and insists on equal rights for all, whatever their gender or sexuality. I do not recognise that as apartheid in any way, and to lay the blame on Israel for everything that is wrong in the middle east strikes me as blinkered, unbalanced and unlikely to lead to the successful and sustainable peace that I hope we all desire.

However, frankly, I did not want to contribute to the debate because I felt a need to share my own views on Israel; rather, I wanted to speak up because I believe that Scotland's growing hostility towards Israel has created an atmosphere of anxiety among many members of the Jewish community in Scotland that is deeply troubling for all of us who believe in a tolerant, inclusive and caring multicultural society.

I recognise that many of my parliamentary colleagues care deeply and passionately about the middle east and hold very strong views about the situation in Israel and Palestine. I will be honest: given that foreign affairs are predominantly reserved to Westminster, I have misgivings about debating such issues in the Scottish Parliament. It is easy for us to express our views on issues when we are not held accountable for them, which, in turn, can lead to irresponsibility. I do not wish this Parliament to be reduced to a talking shop.

However, anti-Israeli sentiment is now in danger of becoming rooted in civic Scotland, in some academic circles and among some trade unionists. It is almost a totemic issue for some of my colleagues on the left, and I worry that, here in Parliament, MSPs have played a part in that process.

Over the past couple of years, anti-Semitism has raised its ugly head once more, shaking the confidence of families who have lived here for generations. The research that was recently carried out by the Scottish Council of Jewish Communities revealed that people are feeling isolated and vulnerable, with many thinking about leaving Scotland—their own country; their own home—for good.

Over the years, as an MSP I have tried various ways to address—in fact, to redress—that growing prejudice and the resultant anxiety. Those have included sponsoring an exhibition on Israel's phenomenal contribution to the modern world and hosting speakers to talk about the reality of day-to-day life in Israel—looking at equal access to

medicine, for example. Unfortunately, the reaction to those events has often been expressed through the very behaviour that I am so keen to counter: depressingly illiberal attempts to interrupt, disrupt or shout down discussion.

Is that really what we have become: a harsh, unwelcoming and intolerant country that is more interested in preventing concerts or banning books than in spreading understanding? That is not my vision for modern Scotland. I urge all colleagues to think again about how we change views and attitudes not through condemnation but through discourse, learning and engagement. Let us start today, right here in the Scottish Parliament, by building bridges.

13:01

John Mason (Glasgow Shettleston) (SNP): I thank Jackson Carlaw for bringing the debate to the chamber. We have debated Israel and Palestine before, and I am happy that we do so again today. Similar to what I have said in previous speeches in the chamber, my theme today is that we should be encouraging peace talks and trying to reduce tension, and that we should not be cheering on either side.

I would not describe myself as a pacifist, but the more I read about the events of 100 years ago during world war one, the less I believe that violence and war solve very much at all.

Those who are sympathetic to Israel are positive about the motion before us today, in contrast to past motions, which were seen as being very anti-Israel. I have had a number of emails thanking me for supporting the motion. However, those emails also thanked me for supporting Israel. I guess it depends on what is meant by "support". The picture that comes to my mind is of a football supporter cheering on their team through thick and thin, no matter what. I have written back to those correspondents to say that I do not support either Israel or Palestine in that sense.

I support a two-state solution, as a lot of fair-minded people on both sides say that they do. Is that actually achievable, or does the history since 1948 show that, frankly, it is impossible? Members can call me naive if they want, but I believe that it is achievable, if there is the international will. There are lot of big regional and world powers that need to be around the table—Iran, Saudi Arabia, Egypt, Russia and the United States for starters. Together, I believe that they are able to pressurise both Israel and Palestine to take part, and to do so meaningfully, in a peace dialogue. After all, the reality is that both Israel and Palestine are pretty small in the grand scheme of things. If we could agree that that is the way ahead, it seems to me that cheering on either side and promoting

cultural, sporting and other boycotts will not help; certainly, supplying excessive amounts of arms will not help.

Why is Israel singled out for so much hatred? It is repeatedly accused of war crimes, apartheid, occupation, murder and countless other horrors, yet a number of other states on the international scene have records that are almost certainly worse. Amnesty International's recent report for 2015-16 refers to China and its record on Tibet, religion and human rights; to Saudi Arabia, which uses the death penalty extensively and where women face discrimination and severe restrictions on freedom of expression; and to Egypt, where thousands, including peaceful critics, are arrested. Why is Israel singled out for so much opposition? It would be more understandable if there were also calls to boycott China and Pakistan for their human rights records. I wonder whether Israel is singled out because, first, Israel is so small and, secondly, Israel is Jewish.

I am regularly told by folk that they are critical of Israel but are not anti-Semitic or anti-Jewish. I can understand that as I would consider myself critical of North Korea, for example, but I am not—I hope—anti-Korean. However, I feel that, for some people at least, justifiable criticism of Israel switches over to real hatred. We in Europe have to be very careful about that because we have a joint history of being very anti-Jewish—a history that ran for hundreds of years and culminated in the 1940s. Are we certain that it finished then? Jews in Glasgow find themselves being blamed for the faults of Israel today.

All I ask today is that we do all that we can to build bridges, both within Scotland and internationally. I believe that both Scotland and the UK have a role to play in bringing peace to the middle east.

13:06

Alison Johnstone (Lothian) (Green): The Scottish Green Party supports the boycott, divestment and sanctions campaign because it is a very effective tool for supporting the Palestinian people in their struggle against oppression. There has long been an international failure to hold Israeli Governments to account for disregarding international law and ignoring the health, safety and human rights of Palestinians. As the Palestine Solidarity Campaign highlights, the 2005 call for boycott came from leading Palestinian cultural and academic figures, who urged their counterparts in civil society and

“people of conscience all over the world”

to undertake

“initiatives against Israel similar to those applied to South Africa in the apartheid era.”

By putting economic pressure on the Israeli Government, we can join a worldwide campaign that calls on corporations that profit from Israel's occupation of Palestinian territories to pull their funding.

Boycott is a legitimate form of protest, and of course it is one that we do not undertake lightly. As my colleague John Wilson points out in his motion opposing restrictions on the right to protest, similar campaigns helped to weaken the apartheid regime in South Africa. As was said by my colleague John Finnie, this is not a boycott against Israeli artists who are not being used to support brand Israel—the Israeli propaganda strategy that is designed to whitewash human rights abuses—but a boycott of the Israeli state and those who seek to normalise the occupation of Palestine.

It is important that we understand that a deep and unwavering commitment that none of us should ever forget or downplay the atrocities of the Holocaust and the oppression of Jewish people is entirely consistent with opposing any abusive actions by the Israeli Government or, indeed, any Government. To argue otherwise obscures the genuine attempts of those who want to see a secure and lasting peace in the middle east and who believe that the biggest obstacle to achieving that is oppressive Israeli state action.

Mr Carlaw suggests in his motion that we should pursue greater cultural links with Israel rather than boycotts that make clear that Israel's treatment of the Palestinian people is unacceptable. However, to do that while the oppression of Palestinians continues would be to sweep under the carpet the Israeli attacks on Palestinian culture, including vandalism, destruction, the closure of and military attacks on Palestinian cinemas and theatres, the banning of cultural events and restrictions on the movements of Palestinian artists.

It is truly alarming that it is still, in this day and age, impossible to express solidarity with desperate and oppressed people without facing accusations of bigotry against their oppressor. I do not agree with Mr Macintosh and Mr Carlaw that there is growing hostility towards Israel. Absolutely every person on this planet—not just in Scotland but globally—is entitled to a peaceful existence. I want to work with all parties that can contribute to the end of the occupation of Palestine by non-military means. A just peace in Israel and Palestine could be the catalyst for achieving wider peace in the region and across the world. Efforts to criminalise boycotts or publicly smear those who express support for the Palestinian people serves only to hinder any progress towards peace.

We have the choice of following those such as Archbishop Desmond Tutu, who fought to end South African apartheid and who supports the BDS campaign, or of failing to play any part in the

efforts to end the apartheid in the middle east. The cultural boycott of Israel is moderate in its objective, which is simply to ensure that Israel observes international humanitarian law.

13:10

Claudia Beamish (South Scotland) (Lab): I declare an interest as a co-convenor of the cross-party group on Palestine. I thank Jackson Carlaw for enabling us to debate the complex and difficult issue of peace for the Palestinians and Israel and the importance of ensuring that there is no anti-Semitism here in Scotland today.

I make it clear that I abhor anti-Semitism or racism of any kind. I am clear that, if we are to reach a just and peaceful solution for Israel, for Palestine and for the middle east, we need some cultural bridges and boycotts. One cultural link that is to be welcomed—I highlighted it in the chamber in a previous speech on this complex issue—is found in the West-Eastern Divan Orchestra, which was founded by Daniel Barenboim and Edward Said. Its aim is

“to promote understanding between Israelis and Palestinians and pave the way for a peaceful and fair solution of the Arab-Israeli conflict.”

Through such cultural links, young people in Israel can surely start to understand the real state of affairs.

However, there are strong reasons to consider a boycott of some events if they are connected with the oppression of the Palestinian people by the Israeli state. Recently, I heard of an initiative involving young Israelis and Palestinians playing in the same football team that was being promoted as a good story. It is indeed a good story, but we need something of a reality check here, because we need to remember that Israel is an occupying state and the Palestinians live in occupied territories.

I have been to Gaza with the Council for European Palestinian Relations. My father was a regular soldier in Bethlehem before the last world war, and I grew up with Palestinian exiles. My colleague John Finnie and I went to Gaza in November 2012, very soon after operation pillar of defence. I in no way condone violence of any kind—I do not believe that it is the solution—and we saw with our own eyes the effects of disproportionate force and the destruction and mayhem caused to civil society.

Cultural links are not enough for a just solution. We need to act on boycott, divestment and sanctions. As my colleague Alison Johnstone said, the BDS initiative was launched by Palestinian society in 2005 and it now includes more than 300 organisations. I believe that it is a powerful tool for

people around the world to use in playing their role in standing up for struggling Palestinians.

The Israeli state has simply disagreed with the numerous rulings of international law that state that its settlements are illegal, and it continues to deny Palestinians’ fundamental rights of freedom, self-determination and equality. The past holds significant examples of the power of effective boycotts. Rosa Parks’s bravery triggered a boycott that began with a bus company and was part of the civil rights movement in America, and the apartheid regime in South Africa was brought to its knees partly thanks to global solidarity against South African industry, academia and culture.

I welcome those in the public gallery and I welcome the Israeli representatives. I hope that they will take back the concerns and views that I have highlighted, which many in Scotland share. I hope not only that there will be lasting peace but that it will be a just peace for the people of Palestine that will also ensure that there is security in Israel and the wider middle east.

13:15

Sandra White (Glasgow Kelvin) (SNP): I thank Jackson Carlaw for bringing this debate to the chamber and I welcome all those who are here in the public gallery.

The motion calls on the Parliament to acknowledge

“the recently published open letter signed by over 150 high-profile cultural and political figures in support of the aims of Culture for Coexistence,”

which

“calls for an end to cultural boycotts”.

The letter was published in *The Guardian* in October 2015. The Parliament should also acknowledge that the opinion in that letter was a response to a letter that was signed by hundreds of artists, published in *The Guardian* in February 2015, which expressed the opposite opinion. Signing that letter was those artists’ choice.

People have the freedom to express their beliefs and opinions, and I respect and would defend that right. Many people, including me, are very concerned by the Westminster Government’s attempts to limit local authorities’ autonomy and people’s right to protests. Those freedoms define us as individuals, communities and societies. They form the fundamental basis of our democracies and are rightly cherished. Jackson Carlaw has brought the debate to the Parliament, and that is a perfect example of the exercise of those rights. Opinions may differ and there may not be agreement, but those opinions are not to be denied. In fact, opinions and the differences between them are to my mind what will, I hope,

drive us towards a peaceful resolution to the situation that we face. Peace will not be achieved by silencing voices and I believe that we must all remain mindful of that.

I have spoken to many people on both sides, in both communities, who want to see a just and lasting peace. That is where our energies and efforts should and can achieve results. We may disagree on how to achieve peace, although we may be united in our desire for it. However, we can work towards peace in the middle east. We must, for the sake of the Palestinians and the Israelis, work towards a just peace for all people there. Although we may disagree on how to achieve that peace, there is a desire for it on both sides. I know that we can all agree on that, and that gives me optimism that peace can be achieved. However, it will not be achieved by silencing people and denying them the right to protest.

I thank Stewart Maxwell for his measured contribution today, which did him great justice, and I thank Alison Johnstone for her excellent speech, which encapsulated the thoughts of many, and I thank my other colleagues for their contributions. Once again, I thank Jackson Carlaw for bringing the debate to the chamber. I respect his right to put across his opinion and to act on that. As individuals, we have a fundamental right to opinion and expression, and it should be respected.

13:19

Jean Urquhart (Highlands and Islands) (Ind):

I, too, thank Jackson Carlaw for bringing this debate to the chamber. I also declare an interest as a member of the cross-party group on Palestine and a member of the Scottish Palestine Solidarity Campaign.

First, I must challenge Jackson Carlaw on his remark about anti-Semitism. I and many thousands of others might be critical of the Israeli Government and sympathetic to Palestinians, but that does not make us anti-Semitic. Although I have lived and worked in Scotland for most of my adult life, I have worked on more than one occasion with Jewish people. If there is one thing I want people to remember from this, it is that any political opinion about or criticism of the Israeli Government does not equate with anti-Semitism.

Let us look at what the artists in the UK are saying and, indeed, the current pledge by Scottish artists to support this boycott, which says:

“We support the Palestinian struggle for freedom, justice and equality. In response to the call from Palestinian artists and cultural workers for a cultural boycott of Israel, we pledge to accept neither professional invitations to Israel, nor funding, from any institutions linked to its government until it complies with international law and universal principles of human rights.”

Let us look, too, at some of the cultural events that have happened. Members will forgive me if I mispronounce the name, but I note that Arye Mekel of the Israeli foreign ministry has said:

“We will send well-known novelists and writers overseas, theatre companies, exhibits. This way, you show Israel’s prettier face, so we are not thought of purely in the context of war.”

We should also look at some of the facts about Israel’s attacks on Palestinian culture. In 1987, Israeli authorities closed the cinema in east Jerusalem, and it remained closed until Palestinians reopened it in February 2012. In 2002, Israel prevented Palestinian poets Zakaria Mohammed and Ghassan Zaqtan from travelling to Ireland to read their work. In 2002, Israeli soldiers in Bethlehem vandalised a theatre and destroyed equipment. In May 2009, Israeli soldiers prevented the opening of the Palestine festival of literature in Jerusalem and, again in 2009, the Israeli authorities banned numerous Palestinian cultural and educational events that had been scheduled to celebrate the declaration of Jerusalem as the capital of Arab culture for that year—and so on and so on.

We must also recognise the investment that some of our own artists have made in declaring their support for this boycott. The late Iain Banks, who has been noted in the chamber and by everyone as the intellectual and creative writer that he was, refused to allow his books to be published in Israel, saying:

“The BDS campaign for justice for the Palestinian people is one I would hope any decent, openminded person would support. Gentile or Jew, conservative or leftist, no matter who you are or how you see yourself, these people are our people, and collectively we have turned our backs on their suffering for far too long.”

I hope that today we reassure the large number of people in the public gallery that we are not expressing anti-Jewish sentiment but talking about international law and human rights.

13:23

The Cabinet Secretary for Culture, Europe and External Affairs (Fiona Hyslop):

I congratulate Jackson Carlaw on securing this debate and welcome the range of positions that members have articulated in strongly argued and considered speeches across the chamber.

Jackson Carlaw’s motion concerns the open letter that was signed by supporters of the culture for coexistence network. I note that the organisation’s chair, Loraine da Costa, stated that

“culture has a unique ability to bring people together and bridge division”.

In general policy terms, the Scottish Government recognises and supports artistic freedom and the

role that culture plays to increase understanding of others.

In line with other Governments in Europe—and, indeed, with Mahmoud Abbas, the President of the Palestinian National Authority—the Scottish Government does not advocate a policy of boycotting Israel. Any engagement with the Israeli Government or the Palestinian National Authority provides us with an opportunity to call for a peaceful resolution between both sides of the conflict, and to put forward our concerns in the strongest possible terms. The Scottish Government has also made it clear on a number of occasions that we do not dictate to cultural institutions, organisations or individuals what approach they should take.

The Scottish Government strongly encourages the Israeli Government and the Palestinian National Authority to work with the international community on securing long-term peace and ending the cycle of violence that continues to affect Palestinians and Israelis.

The Scottish Government supports the European Union position of a two-state solution based on the 1967 borders, and firmly encourages Israel and Palestine to reach a sustainable, negotiated settlement under international law, which has as its foundation mutual recognition and the determination to coexist peacefully.

We aspire for Scotland to act as a good global citizen, drawing on our own experience at home to promote tolerance and respect for human rights in other countries. Whenever the question of Israel and Palestine is raised in the chamber, we consistently urge all sides to seek a peaceful, negotiated solution that respects the rights of all the communities affected. By the same token, we have consistently condemned obstacles to progress in the peace process, such as the indiscriminate rocket attacks on Israel or the continued expansion of illegal settlements in the occupied territories. We have also repeatedly called on the United Kingdom Government to use its influence to help to revitalise the peace process and find a way to break through the political deadlock and bring an end to the conflict.

Within Scotland, the Scottish Government does not tolerate violence or extremism in any form, whether in deed or word, and we condemn it when it is directed at any of our own communities. Jackson Carlaw is correct to stress the need to support all our minority communities in Scotland, and we absolutely support that, but he is wrong to say that criticism of Israel means that someone is anti-Semitic—that point was made well by Jean Urquhart.

Jackson Carlaw: I think that I was careful not to say that. I said that, unfortunately, on occasion

inadvertently but sometimes deliberately, one is used to mean the other. However, I do not for a moment suggest that that is universally and always the case.

Fiona Hyslop: That is an important clarification in the context of the debate.

The free and open exchange of ideas is vital in building understanding and trust between communities. We want to encourage an environment in Scotland where those kinds of conversations can take place. In December 2012, our former First Minister wrote to Daniel Taub, the Israeli ambassador to the UK, to underline the fact that Scotland values and is committed to cultural freedom and to communicate our desire to encourage reasoned debate.

Culture from Israeli artists features regularly as part of festivals and tours in Scotland—Jackson Carlaw mentioned the Aberdeen international youth festival, which I have attended. At no point has the Scottish Government intervened in the artistic creativity and integrity of Scottish programmers who have invited those artists to form part of their programme.

Culture has become a powerful tool to promote dialogue and debate in order to promote a better and deeper understanding of other nations, which can help the process of resolution in areas of conflict. Across Scotland, our culture sector is leading the way in these debates, bringing to Scotland international delegates from places such as Iran, Iraq, Israel, Palestine and many more to be exposed to our culture and build a relationship of trust.

One example of such an attempt to break down borders was the show “Here is the News from Over There”, which was performed at the Edinburgh fringe festival in 2015 and was produced by theatrical company Northern Stage, working with Scottish playwright David Greig. It involved 20 writers from across the middle east contributing stories, poems and reportage via Twitter, which were fashioned into a theatrical cabaret with different content each night. The hosts included Sara Shaarawi from Egypt, Hassan Abdulrazzak from Iraq and Lebanese writer Abdelrahim Alawji.

Culture builds bridges to enable dialogue between people as individuals and between nations. It can transform lives and facilitate international, open and honest debate. However, I want to be clear about one point in particular. When the culture of a country is used as propaganda, it diminishes art and artists. Artists need freedom and freedom of speech to flourish. It cannot be the function of politicians and Governments to stifle art or artists or to dictate what art should be. However, art and artists do not

and cannot live separately from their experiences. Therefore, we cannot and should not always expect them to be the voice of the politics that we want to hear or be comfortable with what they have to say about Government, whether they are Scottish, Israeli or Palestinian, or whether the Government in question is Palestinian, Israeli or Scottish.

Cultural freedom is precious and Governments must have the utmost respect for it. It allows us to express our humanity and our capacity to connect as peoples. Culture and art can and should make us challenge how we see the world, and an important part of that is the ability to listen to another point of view even if we disagree with it. In listening to the different points of view that have been expressed here today, we can show that, by sitting down and engaging, we can understand different perspectives. However, we must always respect the right to free cultural expression—to me, that is a very precious thing indeed. In the Scotland that we seek, cultural freedom should always be at the heart of how we represent ourselves to our own communities and to others internationally.

The Deputy Presiding Officer: I thank all members for their elegant and dignified contributions to this important debate.

13:30

Meeting suspended.

14:30

On resuming—

Local Government Finance (Scotland) Order 2016 [Draft]

The Deputy Presiding Officer (Elaine Smith): Good afternoon. The first item of business this afternoon is a debate on motion S4M-15735, in the name of John Swinney, on the draft Local Government Finance (Scotland) Order 2016.

James Kelly (Rutherglen) (Lab): On a point of order, Presiding Officer. Under rule 8.17.1 of the standing orders I wish to challenge the Presiding Officer's ruling on the non-selection of the Labour amendment for this debate. That is a regrettable decision that restricts debate on the important matter of protecting public services, and it follows on from the Presiding Officer's decision not to select any of the amendments that were lodged for the stage 3 debate yesterday on the Budget (Scotland) (No 5) (Bill) from Labour, the Liberal Democrats or the Greens.

On both occasions, I asked the Presiding Officer for an explanation. The Presiding Officer emailed to say that she does not publish explanations in such circumstances. That is disappointing, and the approach lacks transparency.

I ask that the decision be reconsidered, even at this late stage. I also ask for a review of the procedures for publication of the reasons for the non-selection of amendments where a legitimate query is raised.

The Deputy Presiding Officer: I thank the member for indicating in advance that he wished to raise a point of order.

The member has already indicated that the Presiding Officer has advised him that the selection of amendments is entirely a matter for the Presiding Officer. In line with her predecessors, the Presiding Officer does not give reasons for her decisions on the selection of amendments, but that does not, of course, in any way inhibit matters being raised during the debate as it proceeds.

I thank Mr Kelly for his point of order.

I call John Swinney to speak to and move motion S4M-15735. The Deputy First Minister has a maximum of nine minutes. We are very tight for time this afternoon.

14:32

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): The Local Government Finance (Scotland) Order 2016 seeks

agreement on the allocation of revenue funding to local government for 2016-17 to enable local authorities to maintain and increase the pace of reform in order to improve the vital services on which the people of Scotland depend and which they value. It also seeks agreement on the allocation of additional funding for 2015-16 that has been identified since the 2015 orders were discussed and approved at this stage last year.

The 2016-17 finance settlement that we are providing to local government must be set against the backdrop of the United Kingdom Government's continuing austerity programme and the real-terms reduction in the Scottish budget. It is in line with the challenging settlement that is being provided to other public bodies, with the exception of the health service, which the Government is committed to protecting.

In 2016-17, the Scottish Government will provide councils directly with a total funding package that is worth over £10.3 billion. That includes revenue funding of almost £9.7 billion and support for capital expenditure of almost £607 million. However, that is only part of the picture. In addition to the settlement allocations in the order, local government benefits from the attainment Scotland fund, which provides support to schools in our poorest neighbourhoods to raise attainment. As I confirmed to Parliament yesterday in the Budget (Scotland) (No 5) Bill debate, I will double the amount of funding that we planned to allocate to the attainment Scotland fund over the next three years, from £80 million to a total of £160 million. That substantial additional investment will support local authorities in our quest to tackle the poverty-related attainment gap and ensure that every child has the opportunity to realise their potential.

The order seeks Parliament's approval for the distribution and payment of over £9.5 billion out of the revenue total of almost £9.7 billion. The remainder will be paid out as specific grant funding or other funding, which will be distributed later as agreed with local government.

I will provide a bit of background to the overall 2016-17 settlement funding package, which is firmly focused on the delivery of joint priorities: to deliver sustainable economic growth, protect front-line services and support the most vulnerable in our society.

My priority has been to deliver a financial settlement that councils can accept, in order that we can pursue those shared priorities, which will improve outcomes for local people through health and social care integration and improving educational attainment. To that end, the accepted funding package for 2016-17 will protect the council tax freeze for a ninth year. We have, once again, committed £70 million to fully fund the council tax freeze to provide protection for

household incomes in what has been a very financially challenging period for many.

We will invest £250 million in integrating health and social care services. That funding will support additional spend on expanding social care to support the objectives of integration, including through making progress on charging thresholds for all non-residential services, to address poverty. That will also help to deliver the living wage for all social care workers and help to meet a range of existing costs faced by local authorities in the delivery of effective and high-quality health and social care services.

Thirdly, we will maintain the pupil teacher ratio in Scotland's schools. The Scottish Government has been consistent in protecting teacher numbers as a central part of our priority to raise attainment; £88 million is included in the settlement to ensure that schoolchildren continue to receive the same amount of teacher time by ensuring that councils maintain the number of teachers to pupils at current levels, and includes the induction of new teaching staff to replace those leaving the profession. Taking into account the addition of the £250 million to support the integration of health and social care, the overall reduction in funding equates to less than 1 per cent of local government's estimated total expenditure in 2016-17.

I welcome the agreement of Scotland's local authorities to this financial settlement, which, when taken together as a package of funding, will enable them to increase the pace of reform and improve essential public services to communities all over the country. I am pleased to note that, to date, 16 councils have formally set their budgets for the coming year and that they include plans to deliver on our package of measures.

The figures for 2016-17 presented for approval today include two significant additions from the provisional distributed figures issued on 16 December. Those include almost £54 million to deliver free school meals to all children in primary 1 to 3 and more than £26 million—the initial 80 per cent instalment of the money set aside for discretionary housing payments—to enable councils to mitigate fully the impact of the UK Government's discredited bedroom tax.

The 2016 order also seeks approval for changes to the increase in funding allocations for 2015-16 amounting to a total of £72.8 million, which was either held back from the 2015 order or has been added to fund a number of agreed spending commitments that have arisen since the 2015 order was approved. Those include: £27.5 million, being the previously held back balance of the teachers induction scheme funding; £10 million for maintaining teacher numbers and pupil teacher ratios in 2015-16; £9.7 million funding assistance

to enable local authorities to provide support and assistance to communities impacted severely by the emergency weather situations experienced at the end of last year and the beginning of this year; £7.2 million to support implementation of the one-plus-two languages policy; £5.8 million to support the local government contribution to the developing the young workforce programme resulting from the Children and Young People (Scotland) Act 2014; and £5 million for kinship care allowances.

I should explain that the total revenue funding to be paid out to councils in 2016-17, but not covered by the order and which will be distributed later, includes: £86.5 million paid directly to criminal justice authorities; £37.5 million for the teachers induction scheme; and £9 million, being the balance of funding for discretionary housing payments.

Although not part of the order, the overall package for local authorities includes support for capital funding in 2016-17 of almost £607 million. Allowing for the reprofiling of £150 million from 2016-17 to 2017 to 2020, that meets our commitment to maintain local government's share at 26 per cent of the Scottish Government's capital budget.

I turn to business rates, which is a key issue for local services and economic growth. Yesterday, at stage 3 of the Budget (Scotland) (No 5) Bill, I confirmed that we would moderate the proposed adjustment to rates relief for empty industrial properties and extend the fresh start and new start reliefs for the duration of 2016-17. Other proposals that I can now confirm are to set the standard poundage rate at 48.4p and the large business supplement at 2.6p for 2016-17.

Our renewables relief scheme will be refocused to support schemes with community involvement and on new developments that are coming on stream in 2016-17. The small business bonus scheme will continue unchanged for 2016-17, benefiting around 100,000 business properties.

We are extending for a further four years, to 2019-20, the current business rates incentives for enterprise areas and are creating a new life sciences enterprise area at Biocity in North Lanarkshire.

The closure of the two Tata Steel sites is a national concern, and our task force has been interrogating ways to support reoccupation. One measure that we are putting in place is new rates relief for steel production on the sites.

Given the importance of rural digital connectivity, we are piloting a new rates relief scheme in Arran and the Cairngorms to incentivise new mobile mast construction, which could subsequently be rolled out more widely.

Presiding Officer, legislation was laid yesterday for all those changes to come into force on 1 April. They underline the Government's commitment to maintain Scotland's position as the best place in the United Kingdom to do business, with a rates relief package that is estimated at over £550 million for 2016-17. We continue to listen to the views of business and we will shortly announce details of the review of business rates, as we committed to do at the draft budget.

In summary, the total funding from the Scottish Government to local government next year amounts to over £10.3 billion. With that in mind, I move,

That the Parliament agrees that the Local Government Finance (Scotland) Order 2016 [draft] be approved.

14:41

Jackie Baillie (Dumbarton) (Lab): It was only yesterday that workers from councils across Scotland assembled in front of this Parliament to protest the cuts that are being visited on local government by John Swinney. They stood shoulder to shoulder with councillors and council leaders, and they did so because they know that those cuts are not council cuts—they are Scottish National Party cuts; they are John Swinney's cuts. The SNP Government had a choice, but it decided yesterday that it would continue Tory austerity and cut hundreds of millions of pounds from essential public services rather than raise a penny on income tax. Those cuts, Presiding Officer, are entirely SNP cuts.

Mr Swinney had the bare-faced cheek to try to tell us that the impact of the cuts was minimal and that we were utterly exaggerating the scale of job losses. The SNP has form on that. Unions estimate that there have been 40,000 job losses in local government since the SNP came to power. The Convention of Scottish Local Authorities has said that there will be 15,000 job losses as a result of this budget, and the GMB estimates that there will be 8,000. Whichever figure it is, the scale of the jobs that will be cut from local government is not minimal or exaggerated.

SNP-controlled Clackmannanshire is a very small authority. Let me repeat: it is cutting 350 jobs over the next three years. Of course, the First Minister did not want to go into that much detail, so she gave us only the first-year figures. That is 15 per cent of the whole workforce of that local authority. What about the cuts that that local authority is making to the third sector? What about the cuts to Women's Aid and Rape Crisis? Will there be no job losses as a consequence of those?

What about other areas? I understand—I am sure that the Deputy First Minister will correct me if

I am wrong—that 170 jobs were lost in Angus last week, and 282 posts might well go in Highland. Unison tells us that almost 2,000 jobs were lost in Edinburgh, where the SNP is in coalition with Labour. That is seven times the number of job losses at Tata Steel. If the SNP is so sure of its ground, let us have an impact assessment of the underfunding of local government, the cuts to services and the loss of jobs, because it is not minimal and it is not exaggerated.

In Mr Swinney's backyard, Perth and Kinross is cutting learning materials and support staff and increasing class sizes in English and maths. I do not think that he believes that that is good for the children in his area.

Local councils are struggling with the cuts. Jobs are not being replaced when they become vacant. Staff are being asked to do more with less. In some areas, absence rates have gone up, which indicates the stress that staff such as teachers and care workers are under. People are losing their jobs, and they are under increasing stress. Are they simply collateral damage for the cabinet secretary? Is the impact on them and their families minimal or in some way exaggerated?

I repeat a point that we have made consistently. If this was the private sector, members of the Scottish Parliament across the chamber would be clamouring for a task force to alleviate the impact. When will the cabinet secretary do something to help those who are now out of work?

The cabinet secretary says that he has agreement from all 32 local authorities. Yes, he has letters that accept the budget allocation that was made to the local authorities, because they had no choice. They accepted it under duress. They faced draconian sanctions that would have stripped even more money from their budgets than was already being taken out. How could they not accept the settlement when the cabinet secretary effectively had a gun to their heads?

You might doubt this, Presiding Officer, but I am old enough to remember the days of the concordat with local government, of which John Swinney was the architect. The cabinet secretary talked about mutual respect and parity of esteem, and there were handshakes, back-slapping and smiles all round. Those sunlit uplands are but a distant memory. Relations are now in deep freeze. There is no respect and local government is not valued by a centralising Government. Meetings are being declined and budgets are being slashed. It is so bad that even SNP councillors, including the SNP's lead member in Edinburgh and the council leader in North Ayrshire, are complaining.

The cuts are brutal. According to the Scottish Parliament information centre, they are of the order of £600 million. The budget was £10,756.7

million for last year and it is £10,152 million for this year coming, although I acknowledge that the cabinet secretary has added some in. I am sure that we will be treated to an explanation of capital reprofiling but, in my book, £600 million is £600 million.

The local government share of the Scottish budget is now even lower at 30 per cent. I know that John Swinney likes to claim that it is higher—he always says that to me—but he is engaged in nothing more than smoke and mirrors. He is adding contributions for the fire and police services that he stripped out years ago.

Local government is not some abstract thing. It is all about services that civilise our society, such as home care for older people, adaptations for disabled people, support for children who have special needs, education, care services, emptying our bins, cleaning our roads, libraries, housing and so much more. Those services are for everyone.

The Deputy Presiding Officer: You must close, please.

Jackie Baillie: The SNP has decided that local services are not important. Each and every cut in each and every local authority is John Swinney's cut and the SNP's cut.

The Deputy Presiding Officer: I reiterate that we have no time in hand.

14:47

Murdo Fraser (Mid Scotland and Fife) (Con): I have always regarded the finance secretary as a reasonable man, indeed somewhat mild-mannered. It is therefore something of a surprise to see the level of opprobrium that local government has directed towards him during the past few weeks. We have seen him described as Don Corleone Swinney, a Mafia boss, as the Jack Palance character in the 1950s western "Shane", gunning down the innocent farmer, and as imposing a totally unacceptable settlement that is an attack on the democratic mandate of local government.

It is impossible not to have some sympathy for the views of those in local government about the cabinet secretary's negotiating tactics. I can only imagine the outrage from the SNP if the Westminster Government treated the Scottish Government in the same way as the Scottish Government is treating local councils.

The settlement is undoubtedly a difficult one for councils, and it means that tough decisions have to be taken. As we know from budget debates, the Scottish Government could have made other choices on tax. I agree with its stance on imposing a rise in income tax, but it can hardly blame

Westminster or anyone else for the choices that it has made.

In the area that I represent, I am well aware of the concerns raised by Fife Council about what the level of cuts will mean for public services, but elsewhere the position is happier. In Stirling, where the Conservatives share the administration and we have a Conservative finance convener in Councillor Neil Benny, the council is today delivering a robust, innovative and responsible budget that protects front-line services and finds savings through making the council more efficient. In Stirling, there are no cuts to music provision, nursery care, adult learning, rural services, or services for old people. New money has been found to invest in economic growth in Stirling, including investment in schools, roads, flooding schemes and rural broadband. New efficiencies have been found in the back office. That shows what can be done when Conservatives are involved in running local government.

Other councils have to take responsibility for some of the choices that they have made. In Perth and Kinross, the SNP-run council has chosen to spend nearly £1 million on a relocation of the council chambers from the top floor to the ground floor of the council headquarters. I am sure that that is a desirable project, but one has to ask whether, in these straitened times, it is a priority. The costs include £150,000 that is being spent on new chairs and desks for councillors. Those in the voluntary sector will look on and wonder, as they face potential cuts in funding, how that can be justified.

Today's local government finance order is about the allocation of funding to councils and we will support it. However, we have one reservation, which I mentioned yesterday in the budget debate. I make no apology for raising it again today. I believe that it is not since 2009 that we have had a proper look at the funding allocation mechanism between councils. We have had persistent claims from councils in the north-east of Scotland, particularly from Aberdeen City Council, that the current funding mechanism disadvantages them. When the economy in Aberdeen and the north-east was booming in relation to the rest of Scotland, there might have been a case for ignoring those claims. However, with the rapid downturn in oil and gas, the situation has become more acute and undoubtedly there is greater demand on council services in Aberdeen than there has been before.

For those reasons, we believe that it is time to look again at the funding allocation settlement. It would be useful if the cabinet secretary could indicate when he is winding up whether the Scottish Government is prepared to do that in the near future.

With that one reservation, and conscious of the difficult circumstances in which local government has been put as a result of the Scottish Government's choices, we will support the order at decision time.

14:52

Willie Rennie (Mid Scotland and Fife) (LD): I start—as I finished yesterday—with a special plea for the local alcohol and drug partnerships. The reduction of the main budget from around £69.2 million to £53.8 million is supposed to be made up by money from local health boards. I would appreciate it if the Deputy First Minister could explain whether that money will be forthcoming, because there is great anxiety amongst the alcohol and drug partnerships that there will be a significant drop in their funding of around 23 per cent at a time when they require additional support to deal with the treatment requirements of certain communities.

Those of us who have witnessed some of the projects that that money funds know that it would be a detrimental step for that funding to be reduced. I would appreciate an answer from the Deputy First Minister on whether he will reconsider that allocation or provide guarantees from the local health boards.

Murdo Fraser asked about Aberdeen City Council funding. Mr Swinney and I have an annual discussion about that issue, but every year he refuses to budge. Murdo Fraser makes a fair point that, this year, it is more important than ever that the promise on the 85 per cent threshold—the floor that was set by the SNP Government all those years ago and which has hardly ever been met since—should be met. It accounts for something like an £18 million shortfall in the funding for Aberdeen City Council. At a time when funding is tight, that is a significant sum of money so I would appreciate it if the Deputy First Minister would at last change the policy and agree to meet the 85 per cent threshold so that Aberdeen City Council can receive the money that it is due.

The context for that, of course, is the £500 million cuts to local government as a whole, as we have been debating for what seems like a number of weeks now. To rehearse the argument, we know that the SNP Government has greater flexibility—it has more flexibility than ever before. At the same time, however, it is imposing even greater strictures on local government with its triple-lock arrangement. If councils raise the council tax by just £1, they lose not only all the money for social care and teacher numbers but the funding for the council tax freeze. That seems overly draconian to me, and it certainly removes an element of local democracy and decision making.

As a result, the cuts that are coming local government's way are certainly John Swinney's cuts. Every single one of them is at his behest, and he must accept responsibility for the effects of those cuts as they come in the coming year.

Gavin Brown explained the situation very well yesterday: when the cuts come from Westminster they are draconian, but when they are dealt out to local authorities they are somehow very generous. I do not know where the magic money tree comes from. John Swinney was referred to in yesterday's debate as some kind of wizard, but I am not sure that he is able to magic up that amount of money between the point when the funding comes from London and the point at which it is passed on to local authorities.

As is usually the case, we hear that every single cut is the responsibility of Westminster and every single investment is the responsibility of John Swinney. The two are not the same, and we need a bit more frankness about the flexibility that gives us in this Parliament the ability to do things differently if we so choose. I encourage John Swinney, at this last moment, to change his mind and give local authorities the flexibility, and to look at the alcohol and drug partnerships and at Aberdeen City Council funding.

14:56

Kevin Stewart (Aberdeen Central) (SNP): Over the past few days we have discussed the budget, and we are now discussing the local government finance order, and one thing is clear to me. I certainly do not want low-paid workers in Scotland and their families to have to pay for George Osborne's austerity, no matter what the Labour Party may think.

It was interesting to hear from Jackie Baillie today that she wanted to talk about detail. She and her colleagues have not talked about the detail of the rebate scheme that they are offering as part of their tax raid on the lowest paid in our society. It is interesting that she and her colleagues have avoided giving that detail, and it is clear from all that they do in that regard that they have written a policy on the back of a fag packet. Everybody out there knows that that is the case.

Lewis Macdonald (North East Scotland) (Lab): We are talking about policies that are written on the back of a fag packet. Mr Stewart will remember standing at the last election on a promise that no council in Scotland would receive less than 85 per cent of the Scottish average revenue funding. How will he explain to his constituents and mine why this budget provides Aberdeen with 77.3 per cent of the Scottish average?

Kevin Stewart: What I will say to Mr Macdonald is that I am very grateful to the late Brian Adam, who got this Government to introduce the funding floor. It means that, this year, Aberdeen will get an extra £13.9 million, which in my book is not to be sniffed at.

Lewis Macdonald: Will Mr Stewart give way?

Kevin Stewart: No. I have had enough of Mr Macdonald, it has to be said, just like the people of Aberdeen Central at the last election.

The Government is continuing to live up to its pledges to the people. We are freezing council tax to help families throughout Scotland; the freeze is worth approximately £1,500. There have been advances in health and social care integration, and there is an investment this year that will ensure that care workers get the living wage and is to be celebrated. We should all applaud that.

Yesterday, we heard the cabinet secretary announce that the attainment fund would rise to £160 million—a doubling of that fund, which is extremely important. The cabinet secretary, in his speech today, spoke about discretionary housing payments to cover the Tories' awful bedroom tax, which again hits the poorest in our society, and about funding for kinship carers, which is extremely important.

What my colleagues and I want to see, and what the budget announcement yesterday and the announcement today will deliver, is a pay rise for people on low wages and not a tax rise for our lowest-paid workers. *[Interruption.]*

If the Labour Party has any credibility whatsoever, I ask it to spell out its policy in full so that the public out there know what it is about. *[Interruption.]*

The Deputy Presiding Officer: Order, please. Mr Stewart is closing.

Kevin Stewart: As it stands, what the Labour Party has proposed would see a raid on the pockets of the lowest-paid workers in Scotland. *[Interruption.]*

The Deputy Presiding Officer: Order. Before I call the closing speakers, I remind members respectfully that everyone in the chamber is required to conduct business with courtesy, please. I call Cameron Buchanan—four minutes maximum, Mr Buchanan.

15:00

Cameron Buchanan (Lothian) (Con): I am glad that the debate has given us the chance to elaborate on the challenges and decisions that local government funding faces, because it is important that we get it right. To do that, we need to be clear on what the difficulties are, what has

caused them, what needs to be done and who has the power to make a difference.

It is clear that the current settlement represents a financial challenge for local authorities, as we have all heard, but we must keep an eye on the bigger picture of keeping local government sustainable in the long term. To achieve that, councils across the country need to take the right decisions to deliver services as efficiently as possible. That is the least that taxpayers deserve; and, yes, there remains significant scope to make savings in local government.

It is important to get the balance right when funding for local government is allocated, because each commitment inevitably comes with a cost in the form of alternative spending foregone or taxes raised. Such trade-offs are central to responsible government, and I am pleased that the Scottish Government has agreed with the Scottish Conservatives that it would not be right to inflict higher taxes on the people of Scotland.

Taking more money from people's pay packets might seem like an easier solution to financial challenges, but it is certainly not the right one. I emphasise that a decision to raise taxes and transfer funding to local government was in the Scottish Government's power but that it took the same position as we did to protect taxpayers. It is therefore not good enough to pass the buck again and blame the changes in the finance settlement on the UK Government.

That admission of responsibility is particularly important because the funding from the Scottish Government makes up a huge part of local authorities' budgets and is therefore central to their financial planning. When local authorities are so dependent on central Government funding, as well as subject to centralised targets, they need a Government that can accept accountability for the decisions that it makes.

However, councils are responsible for the long-term sustainability of local services, and it is clear that there is room to streamline those operations. The City of Edinburgh Council, for example, is spending millions on an unwanted scheme to enforce a 20mph limit across most of Edinburgh without there being any compelling reason to do so. I do not see what that will achieve for my constituents, let alone why their council tax should be spent on it; and we all know that that council's track record on fiscal constraint is not that great when it comes to transport schemes.

That is just one of many such examples across Scotland—my colleague Murdo Fraser referred to an example in Kinross. If councils are to serve the public, they must respond to financial pressures by avoiding unnecessary expenditure and by making efficiencies in essential services, rather than

seeking to take more from local residents through crude measures such as increasing parking fees.

It is only correct that we listen respectfully to all points of view and consider varied options if we are to get the system of local government funding and service delivery right for the people whom we represent. Achieving that requires open and honest admissions of where the responsibility lies.

It is not good enough for our constituents if local and central Government claims impotence in the face of someone else's decisions. We must make proper, well-rounded assessments to arrive at the fairest deal for all involved, but all participants must be open about what they can contribute to meet the challenges. After all, it is elected representatives' responsibility to tackle the challenges facing public services rather than pass the buck, and we should certainly not pass the burden on to hard-working members of the public.

15:04

Ken Macintosh (Eastwood) (Lab): Yesterday's stage 3 debate on the budget was a pretty depressing affair. I am sorry to say that I had little expectation that today's debate would be any more edifying. For the most part, the SNP is simply refusing to engage with the argument about raising taxes versus cutting spending, and it is trying to demonise or falsely portray what is on offer or to pretend that it has no real choice.

The cabinet secretary, who we normally—as Murdo Fraser correctly identified—find to be an eminently reasonable and personable parliamentary colleague, presented two arguments that were contradictory. As Willie Rennie said, the cabinet secretary described the settlement that was passed on to him from the UK Government as unacceptable and potentially devastating, but he has said that his proportionately larger cuts to local authorities would have “minimal impact”. I am sorry, but to say that that defies logic does not quite do justice to Mr Swinney's attempts to face two ways at the same time.

In particular—I wonder whether he already regrets this—the cabinet secretary has tried to downplay the effect of his £500 million of cuts on jobs and the number of lay-offs that we might expect. Given that the majority of local government spend is accounted for by the workforce, it is difficult to see how large-scale job losses can be avoided.

Local authorities are certainly in little doubt about the pain that John Swinney's cuts will bring. Unison is worried about 2,000 job losses in Edinburgh, and we heard this week that as many as a further 2,000 jobs could go in Fife. COSLA has estimated that up to 15,000 jobs are at risk. Given that the cabinet secretary has already

presided over at least 40,000 job losses in local government, his attempts to minimise the effects of these huge SNP cuts will be seen as offensive to those who are directly affected and to many in our trade unions. Jackie Baillie put that point to him earlier. If he disagrees with our figures or believes that COSLA and the unions are utterly exaggerating them, I ask him—once more—to produce his own estimates, which we will work from.

Another oxymoronic or contradictory statement that Mr Swinney came out with yesterday was that he is entitled to impose conditions and limits on local government decision making, but that it is entirely up to

“individual local authorities to take the decisions that they want to take about their budget choices”.—[*Official Report*, 24 February 2016; c 20, 21.]

Is the cabinet secretary not aware that it is his centralising and dictatorial attitude to our local authorities that has so angered many of our locally elected representatives? We know that the SNP has already centralised our police service, our fire service and our colleges, but Mr Swinney’s interventions in supposedly local decision making are every bit as authoritarian. Yesterday, he claimed that all 32 councils had agreed with him because all had signed his letter, but he conveniently forgot that he had given them no choice. They had to sign up or face penalties of hundreds of millions of pounds.

I ask again whether Mr Swinney read any of the letters that he received. I have some of them here. The letter from Fife Council said:

“with the greatest reluctance ... I see no alternative ... given the extreme punitive sanctions you would otherwise impose on Fife Council.”

The City of Edinburgh Council said:

“in agreeing this package of measures, I need to make it crystal clear that I’m doing so under duress.”

Inverclyde Council said:

“In all my years in Local Government I cannot recall such a draconian settlement both financially and in terms of the penalties threatened ... I find it totally baffling that a Government which portrays itself at every turn as being anti-austerity would support a settlement that will undoubtedly have a devastating impact on local communities, services and jobs in the years to come when it had other levers at its disposal to avoid such an outcome.”

That does not sound like agreement to me.

We know that this is bad news for jobs and for local democracy, but what does it mean for services? Many fear that the axe will fall most heavily on the third sector and non-statutory services such as women’s aid and rape crisis centres. One group that was at the Parliament yesterday to make its voice heard was Watch Us

Grow from Cumbernauld, which is a small local charity that works with adults who have a range of support needs or who are recovering from mental health challenges. It is based at the gardens at Palacerigg country park. We could not help but be inspired by the difference that it makes to so many lives; it gives people a sense of purpose, fulfilment, achievement and belonging.

Such services are not statutory funded services, but they are essential to the wellbeing of every one of us and they are under threat because of John Swinney’s cuts. Everyone who uses or relies on locally delivered public services is now under threat.

15:09

John Swinney: Let me begin with the remark that Ken Macintosh made about the allegedly centralising and dictatorial policies that I preside over. [*Interruption.*] I think that Jackie Baillie just muttered, “You do.” Of course, we are familiar with the mutterings that we get from the left-hand side of the chamber on a daily basis, but let us look at some of the background to all this.

One of my first acts as finance secretary was to liberate local authorities from £2 billion-worth of dictatorial budget control that Jackie Baillie and her ministerial colleagues had exerted from St Andrew’s house. Local government had asked to be liberated from the dictatorship of ring fencing, and it took the election to office of a liberating SNP Government to remove that constraint from local government. [*Interruption.*] Jackie Baillie knows that I am generous in accepting interventions. If she wants to make an intervention rather than mutter, I will take it.

Jackie Baillie: I do not recall muttering. I put it to the cabinet secretary that what he is doing now is actually ring fencing, which is exactly what he claims not to be doing.

John Swinney: I will come on to that in a second. Removing ring fencing liberated local authorities and gave them much more financial flexibility.

Ken Macintosh attacked us for creating a single police force, but a single police force was in the Labour manifesto in 2011. Did Labour not know what it was agreeing to when it offered that to the people of Scotland? Had it not looked at the detail of what a single police force might look like once it was constructed?

I come to the agreement that I have sought with local government. I do not know why Jackie Baillie was going on about meetings with local government being declined, because I have had endless meetings with local government about the issues—

Ken Macintosh: If that is the case, why did the cabinet secretary not come outside the Parliament yesterday to meet local government representatives?

John Swinney: I hope that Ken Macintosh can understand that on budget day, when I had also appeared before the Finance Committee, it was quite difficult for me to find the time to do everything. On Monday morning, I spent more than an hour with Unison representatives from every part of the country, in a perfectly considered and courteous discussion in St Andrew's house, in which I listened to workers' concerns. Ken Macintosh should not dare to come here and make baseless suggestions that I do not engage with working people in this country.

Ken Macintosh: Where was the SNP?

John Swinney: One SNP MSP who was meeting representatives was me, in St Andrew's house on Monday. Ken Macintosh should not give me the baseless rubbish that he comes out with.

Let us look at the substance of the offer that I made to local government. What issues are at stake? First, there is £250 million-worth of investment in health and social care integration, including investment to pay for the living wage for social care workers. What is there about that proposition that local authorities and the Labour Party could disagree with?

Secondly, we have argued for a settlement that will protect teacher numbers in our schools, so that we do not have any further erosion of their numbers and so that we preserve the pupil teacher ratio. What is there about that that Labour and local authorities could object to?

Finally, we come to the council tax freeze. I remind the Labour Party that many of the authorities that it controls were elected in 2012 on a commitment to a five-year council tax freeze. What on earth is there to object to about all that?

Over our term of government, we have put in place a set of arrangements with local government that began with the removal of ring fencing, to give local authorities much more freedom to act. Over many years of budget settlements, we protected local government from reductions in public expenditure that we as a Government faced. Local government therefore starts this difficult period with a baseline that is at a much higher level than it could have anticipated and which is at a significantly higher level than that for local government south of the border, which has been decimated by reductions in public expenditure.

I encourage members to think about the point that I made in my opening remarks. When the investment that the Government is making in integrating health and social care is taken into

account, the budget reduction in resource terms amounts to less than 1 per cent of local authority expenditure. That is why the claims that the Labour Party is putting around are exaggerated.

I am surprised that Jackie Baillie returned to the territory that she returned to, because it was comprehensively debunked by the First Minister at question time, just a few hours ago, when the accusations and suggestions that the Labour Party has made were exposed for what they are.

I will make a couple of specific concluding remarks to address points that members have made. Mr Fraser asked about the distribution formula. That formula is kept under constant review by the settlement and distribution group. If there were to be a more fundamental review of distribution, we would need local government's agreement, and local government has not signalled its willingness in that respect.

I am familiar with the issues in Aberdeen; indeed, I am the first finance minister to give the city a specific additional funding settlement. If it had not been for my actions, Aberdeen City Council would be getting £14 million less in its settlement than it is getting today.

Lewis Macdonald: Will the cabinet secretary give way?

The Presiding Officer (Tricia Marwick): I am sorry, Mr Macdonald, but the cabinet secretary is in his last 45 seconds.

John Swinney: The city of Aberdeen has been given a settlement, and my colleague Kevin Stewart referred to Brian Adam's work in bringing that about. A persuasive argument was made for something that the Government has faithfully put in place—and, of course, we were the first Government to tackle the Aberdeen funding issue. It was not tackled by the Liberal Democrats when they were in office or by the Labour Party when it was in office. We are the Government that has delivered for the people in the city of Aberdeen, and I encourage the Parliament to support that provision as part of the wider local government settlement that is before Parliament today.

Child Protection

The Presiding Officer (Tricia Marwick): The next item of business is a statement by Angela Constance on the programme of child protection work. As the cabinet secretary will take questions at the end of her statement, there should be no interventions or interruptions. Members who wish to ask the cabinet secretary a question should press their request-to-speak button now. It might be helpful if at the outset I say that we are extremely tight for time all afternoon, and I expect questions to be brief indeed.

I call Angela Constance. Cabinet secretary, you may have 10 minutes.

15:16

The Cabinet Secretary for Education and Lifelong Learning (Angela Constance): Last September, I committed to announcing a programme of action on child protection, and to doing so in this session of Parliament. I want to begin my statement by thanking those who work day in, day out to protect Scotland's children, whether they are social workers, police officers or members of the wider children's services workforce.

The Government can be proud of its achievements to promote and support children's wellbeing. The universalist, preventative approach that we have embedded in getting it right for every child is working. For example, we achieved our aim of reducing stillbirths by 15 per cent by 2015 a year early; the latest report of the growing up in Scotland study shows that progress has been made in narrowing the attainment gap and reducing health inequalities in children's early years; and the number of referrals of children to hearings on offence grounds reduced by 82 per cent between 2006-07 and 2014-15.

We know that intervening early improves outcomes, and that approach will be strengthened by the introduction of the named person and increased numbers of health visitors. They will be the heart of a system that is better able to spot vulnerability and heightened risk of harm. They will also be able to take early preventative action and, where necessary, flag up concerns to specialist services in social work and health and elsewhere.

However, despite all that we do to prevent harm, we know that, for a small number of our most vulnerable children, we still require a system that acts when harm has occurred. We need a system that acts to protect children effectively, efficiently and always with their best interests at its centre. The system's fundamental elements are already in place: a small but still increasing number of children are placed on the child protection register

to better co-ordinate how they are supported and protected; we have child protection committees in every local authority area to enable professionals and agencies to work together strategically; and when issues with tragic consequences arise, initial and significant case reviews, following voluntary guidance, are commissioned.

We have also modernised our unique children's hearings system through legislation that was passed in 2011, and we have invested in professional development for social workers and all those who work with vulnerable children and families. Moreover, in recent years, we have focused on the risks posed by particular harms, including domestic abuse, parental substance misuse and child sexual abuse and exploitation.

There are many positives in our child protection system—those are evident in all the elements that I have highlighted. However, the Care Inspectorate's triennial review and the Brock report highlighted weaknesses that we must address, not least in relation to underlying competence and confidence in assessing and responding to risks. Our approach to government is founded on protecting public services and, where appropriate, reforming them. We must ask ourselves the tough questions now to ensure that we are protecting the most vulnerable children by ensuring that they receive the right help at the right time, within a system that is capable of responding effectively to the changing nature of risk.

I am today outlining the actions that this Government will take to strengthen how we protect children. First, we will commission a comprehensive review of the elements that I have just outlined to consider what we might need to change or improve in those underpinning processes and structures. The review will make its recommendations by the end of 2016. It is also timely to consider the impact of the 2011 changes to the children's hearings system. I will, therefore, ask the children's hearings improvement partnership to scrutinise practice in and around the hearings system and report its findings later this year.

Protecting children depends significantly on leadership. That, in turn, depends on professionals feeling that they are supported, valued and confident about taking on a role that, although often harrowing, is one of the most challenging and vital roles in our society.

Recent reports have highlighted the effect of poor leadership. Driving improvement amid a sea of competing priorities is undoubtedly complex and demanding, but it is essential that child protection has leaders with a clear vision of the challenges that are faced and how best to respond. Therefore, the second strand of my improvement

programme will focus on leadership. We will invest in activities to empower and support senior leaders; encourage and support leadership across the whole system; and support staff through the implementation of change and beyond. Specifically, we will host a national leadership summit in the summer to reaffirm our collective aspiration and commitment; we will provide additional funding to the centre for excellence for looked after children in Scotland to extend its improvement work into child protection; and we will introduce a degree qualification for residential child care workers, so that all practitioners have the skills and support that they need.

The third strand of my reform programme will focus on issues of scrutiny, accountability, transparency and assurance. We need to know that the system is working and that it is continuously improving. Therefore, I have asked the Care Inspectorate to move from publishing triennial reviews of key inspection findings to publishing annual ones. Moreover, at the end of its current inspection programme in 2017, the Care Inspectorate will introduce an approach that focuses inspection on services for the most vulnerable children. We will also work with Education Scotland to build on its inspection approach, to strengthen its focus on promoting children's welfare.

Alongside more robust scrutiny, we must develop our knowledge and understanding of what works in child protection practice. We will therefore work with the sector to establish a data and evidence programme, so that we can use all available information to drive effective practice, focus improvement and measure impact.

Professionals tell us that neglect is the primary maltreatment issue that children in Scotland currently face. We have a clear understanding of the devastating long-term effects on children of neglect. We must support practitioners to recognise and respond to neglect appropriately and dynamically if we are to break what is often an intergenerational cycle. Therefore, the fourth strand will focus on neglect and will review current legislation to ensure that we have appropriate and effective measures in place to protect children from actual or risk of harm; develop a holistic picture of neglect across Scotland; and test existing models and implement the best to effect practice improvements. We will ensure that that work links with existing activity in the area, such as the equally safe strategy.

We have much to be proud of in the way in which we champion and care for Scotland's children. However, our ambition to make Scotland the best place in the world to grow up in is not just for some children but for all children. That means having a child protection system that we are

confident delivers the right support at the right time for children and families with the greatest need. My statement today is the next phase of our journey towards that goal.

This is a decisive moment. We have an opportunity to honestly, thoughtfully and critically examine what needs to improve and—most importantly—to effect the necessary changes.

Iain Gray (East Lothian) (Lab): I thank the cabinet secretary for early sight of her statement. There really is no more important matter than the protection of our children, and we always address the issue in the knowledge that, when we fail, that failure too often results in tragedy. The current process, of which the cabinet secretary says that today's statement is the next stage, leads back directly to the case of Declan Hainey and the warnings arising from the Jay report into the Rotherham scandal—warnings that such abuse could happen here in Scotland, too. We will always support the Government in acting on child protection.

The Brock report was published in November 2014, yet, by January 2015, its author was complaining of a lack of progress. In response, in February 2015, a summit was held. Now, a full year later and just in under the wire before purdah, the cabinet secretary has announced a comprehensive review of underlying processes and structures, another summit in the summer and—if I understood her correctly—another review of the legislation in the area. If the Brock report recommended anything, it recommended urgency, knowing what the consequences of inertia could be. After two years yielding two summits and two new reviews, does the cabinet secretary really feel that the journey that she describes is anything like fast enough?

Angela Constance: I appreciate the fact that Mr Gray has brought up the Brock report, because it was very important in highlighting some of the issues and weaknesses in and around the more formal aspects of our child protection system. As we have done previously, I will put in the Scottish Parliament information centre information on the progress that we have made in implementing the Brock report's recommendations. I will outline some of the highlights, as I know that time is tight this afternoon.

Many of the Brock recommendations were accepted quickly at the time, as the Scottish Government's children and families directorate assumed overall leadership of and secured progress on the improvement programme. We are currently liaising with both the Improvement Service and Audit Scotland to commission some further work on the costs and savings attached to early intervention. We had the national leadership summit on child wellbeing last year. Other

recommendations in the report are addressed in the implementation of the Children and Young People (Scotland) Act 2014—particularly part 3. In addition, Education Scotland and the Care Inspectorate are working together to strengthen the quality assurance process.

Important progress is being made in relation to the ministerial working group on child sexual exploitation. Members will have seen the national campaign to raise awareness of child sexual exploitation, which was launched in response to important research that showed that many parents had heard of child sexual exploitation but did not think that it affected their family and did not know how to deal with it. I will place in SPICE comprehensive information showing the linkage between Brock, the Care Inspectorate's triennial review, the work that we have continued to do since 2007 and how the child protection improvement plan is about taking the matter forward.

I have come to the Parliament today of my own volition—I have not come here unwillingly and have not been dragged here. I want us all, together, to honestly look at and appraise our strengths and weaknesses so that we can move forward, building on what is good and addressing where we need to improve.

Mary Scanlon (Highlands and Islands) (Con): I, too, thank the cabinet secretary for the advance copy of her statement, and I put on record the Conservative Party's commitment to the programme of action on child protection.

We have some empathy with Labour's concerns. We would like to see more action as soon as possible, although we appreciate that it can take time to determine precisely what is working and where the problems are and to identify the best and most appropriate solution for every child. In that sense, we would welcome updates after the election and towards the end of the year.

In the meantime, given the excellent work of organisations such as the Aberlour Child Care Trust in supporting families through the preventative approach—taking such an approach is always better than having to respond to a crisis—will that approach be rolled out across Scotland? I am aware that it has been successful in Dundee.

Will the cabinet secretary look again at introducing a pilot for counsellors in schools? The evidence base is that that is highly successful in supporting vulnerable children.

Will the programme of action be targeted at the most vulnerable children to ensure that resources are used for those who deserve and need them the most?

Angela Constance: Mrs Scanlon will know that I do not get into the issue of whether children are deserving or undeserving of support. Perhaps what she meant is that there is a need to build on the strong platform of universal services, which all speakers have made reference to today.

The improvement work is looking specifically at the more formal aspects of our child protection system. There are some fundamental questions that we need to address around the role of child protection committees. There is an interesting debate about who should chair those local committees and whether that should be a senior officer or someone who is independent.

We have significant case reviews in this country that are compiled in accordance with voluntary guidance, but there are no requirements on timescales or on the circumstances in which significant case reviews should be done.

There are also issues around ensuring that we have a self-learning system, so that all our practitioners have their finger on the pulse and are able to prevent tragedies from happening or, indeed, to act swiftly and efficiently when our child protection system needs to intervene to protect our most vulnerable children. The programme of action is very much about our most vulnerable children and the staff, services and structures at the sharper end of the child protection service.

I know that, on the mental health issues that pupils experience, many schools will have a key link to the national health service in order to access advice and support. Mrs Scanlon raises an important issue about mental health and prevention. There are two aspects: we are trying to build on what we have started—that solid foundation of a universal, preventative approach; and we are looking to where we need to improve the sharper, more responsive end of our child protection service.

The Presiding Officer: I recognise the importance of the subject, but I also have a duty to protect the business for the rest of the day. I appeal to members to make their questions brief and to the cabinet secretary to make her responses brief. I will make as much progress as is possible.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I welcome the introduction of the new degree-level qualification for residential child care workers that the cabinet secretary has announced. Will she advise when and how that will be introduced?

Angela Constance: We very much want to take the workforce with us and to support it in this endeavour. It is important that residential child care staff have the qualifications to enable parity of esteem with social work staff, for example. We

will look to implement the qualification over a number of years. We will look at work-based learning methods and ways to acknowledge prior learning. The qualification will be phased in.

Cara Hilton (Dunfermline) (Lab): What reassurances can the cabinet secretary give that the £500 million cut to local authority budgets will not impact on the ability of social work and other services to carry out their child protection functions and deliver on the objectives that are set out in the programme of action?

Angela Constance: In the interest of brevity, I really do not want to rehash some of the debates that we have been having all week. My intention in coming to the Parliament of my own volition on this area, which is vital to us all, is to move forward the debate about what we need to do to ensure that the wider architecture of our child protection services is fit for the future and will tackle neglect.

From my experience, I know that local authorities take their statutory child protection responsibilities very seriously. I am not aware of any issues with recruiting social workers. That is very different from when I was a social worker under the last Labour Government. Next week, statistics will come out that will reveal information such as the spend in social work, and I am sure that we will all want to scrutinise those figures.

Liam McArthur (Orkney Islands) (LD): I, too, thank the cabinet secretary for early sight of her statement. I welcome elements of all four of the strands of activity that she outlined, including the specific focus on neglect, although Iain Gray was right to highlight some of the concerns about the timeframe, particularly given the frustration that Jackie Brock expressed more than 12 months ago. Given that Social Work Scotland identifies substance misuse as one of the key underlying causes of child neglect, does the cabinet secretary think that it is sensible for the Scottish Government to cut funding to alcohol and drug partnerships by £15 million?

Angela Constance: Our local services have statutory responsibilities for child protection. Many issues underlie child protection issues, such as domestic violence, which the Parliament has a good record on tackling. Parental substance misuse is, of course, a huge issue in child neglect. Many members of the Parliament have championed the tackling of child sexual exploitation, domestic violence and parental substance misuse, but we now need to identify who will champion the tackling of neglect in all its forms. It is the biggest single form of maltreatment of children in Scotland.

I absolutely welcome and endorse the briefing from Social Work Scotland, which calls for us to make addressing neglect a national priority. I hope

that my statement sends a message to members, the wider workforce and Social Work Scotland that the Government is taking its responsibilities very seriously and that tackling the neglect that Scotland's children experience is a national priority.

Christian Allard (North East Scotland) (SNP): I welcome the cabinet secretary's comments on the children's hearings system. I thank the 2,500 volunteer panel members for their work. We modernised the framework on children's hearings to give us a strong system.

The Presiding Officer: We need a question, Mr Allard.

Christian Allard: Will the cabinet secretary explain how the review will keep children's needs at the centre of this work?

Angela Constance: We often debate and discuss in the Parliament the need for post-legislative scrutiny. Our children's hearings system is precious to and valued by us all, and the time is now right for us to review the implementation of the Children's Hearings (Scotland) Act 2011. I want to ensure that practice the length and breadth of Scotland is consistent and conducted in the spirit of the act.

Mark Griffin (Central Scotland) (Lab): The cabinet secretary just said that she fully endorses the briefing from Social Work Scotland. However, there is a section in that briefing in which Social Work Scotland expresses concern about the reduction to local authority budgets and the impact that that will have on local authorities' ability to carry out child protection services. Does she agree with that section and will she ask for those budget cuts to be reversed so that child protection services are protected?

Angela Constance: In answer to Cara Hilton's question, I already addressed the point that we are moving the debate on. Of course resources are important, but it is not as simple as increasing resources across the board to address the issue. Some of what we need to address is about our legislation, some of it is about accountability and some of it is about leadership.

The Social Work Scotland briefing identifies a number of issues on which we could take action now, and I give Mr Griffin an undertaking that I will look at those before Parliament dissolves and identify the actions that we could be taking now.

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): One of the biggest current harms to children is the impact of domestic violence in the household. What more could be done to protect children in households that experience domestic violence?

Angela Constance: I know that that issue is important to Christina McKelvie and to many other members across the chamber. Of course we recognise that violence against women and girls has significant consequences for the lives of children and young people—again, that is identified in the brief from Social Work Scotland. Through our children’s services fund, we support specialist services that offer direct support to children and young people who experience domestic abuse. We have invested £3.4 million from that fund in 2015-16.

The Presiding Officer: I offer my apologies to those members whom I could not call.

Scottish Elections (Dates) Bill: Stage 3

The Presiding Officer (Tricia Marwick): The next item of business is a debate on motion S4M-15709, in the name of Joe FitzPatrick, on the Scottish Elections (Dates) Bill.

15:40

The Minister for Parliamentary Business (Joe FitzPatrick): I am pleased to open the debate at stage 3 of the Scottish Elections (Dates) Bill.

I thank the Standards, Procedures and Public Appointments Committee for its scrutiny of, and support for, the bill. Throughout the passage of the bill, I have emphasised that it is very short and straightforward. Nonetheless, it is an important bill, and Parliament has rightly subjected it to the same level of scrutiny as all other bills are subjected to. From the Government’s perspective, it has gone through the same processes as all other bills to ensure its robustness, so I take this opportunity to thank my bill team for their efforts and diligence. That the bill has got to this stage without any amendments being lodged speaks for itself.

I will take this opportunity to recap what the bill will do. As things stand, there will be elections to both the Scottish and UK Parliaments on 7 May 2020. Therefore, the bill proposes moving our election, which is currently scheduled for 7 May 2020, to 6 May 2021. That will mean a five-year term for the next Parliament, and will mirror the one-year extension to this current term. Moving the Parliament election to May 2021 would mean that it would clash with the local government elections that we had scheduled for the same date, so the bill will also move those elections, which are currently scheduled for 6 May 2021, to 5 May 2022. Again, that will mean a five-year term, and will replicate the one-year extension to the current local government term.

During the stage 1 debate, I set out the reasons why I consider the clash of election dates to be undesirable and why the bill is therefore necessary. I will not repeat those reasons now, but it is worth noting that the tenor of the debate at stage 1 indicated consensus in support of the arguments that underpin the bill. However, there is clearly less unanimity on the longer-term solution to the clash of election debates. There was a very interesting debate about future term lengths during the stage 1 debate, in which members expressed a range of views.

It is important to reiterate that decisions on permanent changes to the timing of elections will be for members in the next session of Parliament to take. However, I restate my party’s commitment

to publicly consult on the issue, should we be returned to Government. That consultation would be wide ranging, and I hope that it would prove to be useful to those who make the decisions. The contributions that have been made by members during the passage of this bill will undoubtedly also help to inform future decisions.

In conclusion, I emphasise that this short bill presents a straightforward and pragmatic solution to the issue of a clash of election dates.

I move,

That the Parliament agrees that the Scottish Elections (Dates) Bill be passed

15:43

Mary Fee (West Scotland) (Lab): In opening the debate for Scottish Labour, I say at the outset that we will support the bill at decision time tonight.

The Scottish Elections (Dates) Bill is a concise and effective piece of legislation that aims to make the next term of the Scottish Parliament a five-year term, which will mean that the next elections to the Scottish Parliament, after this May, will be held on 6 May 2021. As a consequence, the Scottish local government elections will also be delayed by a year, which will mean that, after 2017, the next Scottish local government elections will take place on 5 May 2022. Thereafter, elections to Scottish local government will return to taking place every fourth year.

The change to the law will ensure that we do not see a repeat of 2007, when Scottish parliamentary and local government elections were held on the same day, which resulted in mass voter confusion and a record number of spoiled ballot papers. In the aftermath of the 2007 election, the Gould report was published. It recommended complete separation of local government and Scottish Parliament elections—that is exactly what the bill does.

The change to the law will avoid any potential clashes that may arise with Westminster general elections following the introduction of the Fixed-term Parliaments Act 2011. The next UK general election is scheduled for 7 May 2020, so moving the Scottish Parliament elections to the following year will avoid a clash of those two very important elections.

As has already been mentioned, holding multiple elections on one polling day causes problems including an increase in the number of spoiled ballot papers. That is exactly what we saw on 3 May 2007, when the Scottish local government elections and Parliament elections were held on the same day, which resulted in a record number of 142,000 spoiled ballot papers. I am sure that we all across the chamber agree that

we should do everything in our powers to ensure that that situation never occurs again.

A five-year session for the Scottish Parliament will maintain its stability, scrutiny and performance. As Joe FitzPatrick pointed out, it will be up to the next Government to determine when elections take place after that. An alternative three-year session for the Scottish Parliament, which would bring the Scottish Parliament elections forward to 2019, would also have avoided a potential clash with the UK general election, but the main problem with a three-year session would have been the risk of the next Scottish Government implementing poor and rushed legislation in an effort simply to introduce new laws within its short term.

The other devolved institutions—the Northern Ireland Assembly and the National Assembly for Wales—also have five-year parliamentary terms, as does the UK Parliament. The Scottish Parliament should also have five-year parliamentary terms and remain in line with the other Government institutions in the UK.

This is a short but nevertheless important debate. I confirm our support for the bill.

15:46

Annabel Goldie (West Scotland) (Con): We in Parliament debate many highly charged and contentious issues, which are robustly discussed. However, the Scottish Elections (Dates) Bill is not one of them. As has been said, it is a short and straightforward bill.

The twin proposals to shift the Scottish Parliament and local government election dates to 2021 and 2022 respectively are sensible and necessary, and will receive the support of the Conservatives. Indeed, it seems clear that the bill has received wide support both from within and outside Parliament.

According to the policy memorandum, the Scottish Government consulted several organisations on the proposed date changes, including the Convention of Scottish Local Authorities, the Electoral Commission, the Electoral Management Board for Scotland, the Electoral Reform Society, the Scottish Council for Voluntary Organisations and the Society of Local Authority Chief Executives and Senior Managers. That is an exhaustive and impressively authoritative compendium of electoral expertise, and I am very glad that all are said to be supportive of the bill. That consensus is encouraging.

It is important to reflect on how we got to where we are. The Gould report of 2007 pointed out the undesirable aspects of twinning local government elections and Scottish Parliament elections.

Cross-party agreement has now emerged on the principle that that is indeed an unwise course of action, and that those elections should not fall on the same day as general elections to the House of Commons or any other significant elections. That principle is, of course, recognised in the Scotland Bill, which declares that UK legislation should prevent a Scottish Parliament election from being held on the same day as a UK general election, a local election or an election to the European Parliament. That is good practice to which we should adhere.

It is worth noting that the powers that we are exercising are yet another example of further devolution in practice. The responsibility for changing the date of a Scottish Parliament election currently sits with the UK Parliament, but the Smith commission, on which I served, recommended that

“The Scottish Parliament will have all powers in relation to elections to the Scottish Parliament and local government elections in Scotland”.

However, the Scotland Bill that is currently before the Westminster Parliament will not be enacted in sufficient time to resolve the issue that immediately faces us.

It is important that, before they go to the polling station, people know the length of the next parliamentary session and can make a decision with that knowledge. I am very glad that the specific issue is being addressed in the Scotland Bill but, as I said, it will not be passed in time, so the Scottish Elections (Dates) Bill is necessary.

There has been productive co-operation between our two Governments, and I want to see that continue. It is another example of the spirit of the Smith commission working in practice to very good effect for the people of Scotland.

I am very pleased to say that my party will support the bill at decision time.

The Deputy Presiding Officer (John Scott): We move to the open debate. I call Stewart Stevenson. You have up to three minutes, Mr Stevenson.

15:49

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): The bill—all 200 words of it—was looked at intensively by the Standards, Procedures and Public Appointments Committee and we reported, in a mere 1,000 words, our conclusions in its support.

It is part of the continuum of reform, over a long period, of our process of representative democracy, which started perhaps with the great reform act of 1832, which took the vote away from women who, if they had been head of the

household and met the property qualification, had had the vote until that point.

The Representation of the People Act 1867, which quadrupled the size of the electorate, caused its own problems. In 1872, we had to introduce secret ballots, the first of which took place at Pontefract on 15 August of that year. The minister should be aware that, at that time, if appointed to office as a minister, one had to resign one's seat and fight a by-election before being permitted to take up ministerial office. That led, in the 1880s in Scotland, to the situation in which a member had been elected to the Westminster Parliament in a by-election, was appointed a minister, and immediately had to resign and fight another by-election. They were only eight days apart. We think that we have too many elections; perhaps, then, there were even more.

When Winston Churchill lost his seat in Dundee in 1922, there was a first-and-second-past-the-post system, in which we had a single vote but elected two members. In 1945, in the university seats, for which we elected three members using a single transferable vote system, the third member, a Conservative, got—

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): Will the member take an intervention?

Stewart Stevenson: No—I cannot with only three minutes. I am sorry.

The Deputy Presiding Officer: The member is in his last minute.

Stewart Stevenson: The third member was successfully elected on the seventh round of redistribution of votes, having also lost their deposit—an outcome that I wish for many of my Conservative friends in the forthcoming election.

It is said that, in political debate, the debate is not always over when everything has been said but merely when everyone has finally said it. I think that everything that can be said about this bill has probably now been said.

The Deputy Presiding Officer: Excellent. Thank you for your brevity. We move to closing speeches. I call Annabel Goldie, who has up to three minutes—although less would be more.

15:52

Annabel Goldie: Goodness. It seems like only seconds since I was here, but here we go.

I could say that this has been a profound and extensive examination of the bill that is before us. However, it is clear—not for the first time with a bill—that it may be short and straightforward, but important. It is interesting that it is a pragmatic response to a problem of timescales. That was

necessary and sensible. Nonetheless, I may not be alone in believing that constitutional matters such as this should not be driven purely by practicalities. It is clear that many members—Mary Fee referred to it—feel that there needs to be a more established convention to regulate the length of sessions of the Scottish Parliament and to provide a more permanent approach to avoiding potential clashes with other elections.

That needs to be based on a broad debate and on proper examination of the different options that are available to us. Although it will be an issue for the next session of Parliament, it is worth signalling in this debate that it is something to which we really need to apply our minds. It will not affect me because I shall not be here, but I hope—I say to Stewart Stevenson—still to be alive to exercise my vote to support my party in its enhanced and, I predict, increased presence in this Parliament, post May.

Some good work has already been done in Parliament, not least by the Standards, Procedures and Public Appointments Committee. The committee came up with the option of three years, but the consensus is that that is too short for a parliamentary session.

Dr Richard Simpson had concerns: he thought that we should perhaps ally the Scottish elections with the European cycle, with voting in local and Scottish Parliament elections also being held on the same day. I would not support that—I do not think that it is the best solution. The Smith commission, which I referred to in my opening speech, looked at the issue briefly and felt that there should not be an election on the same day as the elections to the UK Parliament or the European Parliament, or any nationwide local government elections. There is scope for investigating that further and for looking at what Wales and Northern Ireland have decided to do. They have both taken the step to legislate to regulate the position.

I am not advocating any one position at this stage, but am merely pointing out that it is important for the future that we do not just react on an issue-by-issue basis in order to do what we need to do to get the matter through, but instead come up with an enduring solution.

There is a myriad of possibilities. The issues are significant. They affect not just us as members of this Parliament, and they affect not just candidates who want to come to this Parliament: they also affect every voter in Scotland.

I have three minutes, Presiding Officer, and I intend to use every last second.

In conclusion, I say that this is a worthwhile bill and an important one, and my party will support it.

The Deputy Presiding Officer: James Kelly has up to three minutes. Less would be more for you too, Mr Kelly.

15:55

James Kelly (Rutherglen) (Lab): I have not even started yet. [*Laughter.*]

Thank you, Presiding Officer. The debate really has been a quick run around the park for everyone. I want to indicate my party's support for the bill at stage 3.

I think that both the minister and Annabel Goldie used the word “pragmatic” in relation to the solution that has been developed. That is correct. Nobody wanted a situation in which the general election and the Scottish elections clashed. That is important because each election has its own distinct issues and set of candidates. If the elections were to clash, it would lead not only to confusion among voters, but to a situation in which it is more difficult and challenging for the political parties and individual candidates to get their distinct messages across. From that point of view, the bill is the right thing to do.

The current situation is a repeat of the one in 2010, when we extended the current parliamentary session to five years. There is an important job to be done in the next session of Parliament in ensuring that the situation does not occur again. We want to avoid clashes of elections, but we need to be very clear about what the ideal lengths of Parliament and local government terms are. One of the regrettable aspects of this necessary legislation is that local government terms will also be extended to five years, when in recent times they have been four years. There is an argument to be made that a system in which politicians and administrations are up for election every four years is more democratic because that length of term makes them more responsive to the needs of the people. It is an important issue that needs to be addressed in the next session of Parliament.

In the meantime, as others have said, this bill is a pragmatic solution and it is the right thing to do. That is why we are seeing Parliament and the parties come together to support the bill today.

The Deputy Presiding Officer: Many thanks. I appreciate your brevity. I call Joe FitzPatrick to wind up. Minister—you have up to two minutes.

15:58

Joe FitzPatrick: I thank the members who have taken part in the debate for their contributions. It is clear from them that there is consensus on changing the dates of the next Parliament and local government elections. That consensus is

welcome, and I believe that it is important that there is agreement across the chamber on the significant issue of changing election dates.

As I said in my opening remarks, there is, however, less consensus about what permanent solution should be implemented when Parliament gets the power to make longer-term changes. When that power comes here, it will be important for us to consider the issue carefully and to undertake the widest possible consultations. I am sure that the suggestions that have been made through the bill's process will be taken on board.

It is imperative that a solution to the 2020 clash of election dates is implemented before voters go to the polls in May. The Scottish Elections (Dates) Bill offers a solution, and I welcome the agreement across the chamber on this relatively short, yet important, bill. Again I thank members for their contributions and invite them to support the motion to approve the Scottish Elections (Dates) Bill at decision time.

The Deputy Presiding Officer: Many thanks. That concludes the debate on the Scottish Elections (Dates) Bill.

Criminal Verdicts (Scotland) Bill: Stage 1

The Deputy Presiding Officer (John Scott):

The next item of business is a debate on motion S4M-15429, in the name of Michael McMahon, on the Criminal Verdicts (Scotland) Bill.

15:59

Michael McMahon (Uddingston and Bellshill)

(Lab): I am pleased to open today's debate on the Criminal Verdicts (Scotland) Bill. Today we debate and vote on whether the Parliament agrees to the general principles of a bill that aims to remove one of the most controversial and illogical elements of the Scottish judicial system. The not proven verdict has been much criticised, with Sir Walter Scott most famously referring to it as "that bastard verdict".

It is true that the verdict has its defenders, but I argue, and my consultation shows, that they are in the minority. The arguments about it have rumbled on over the years among lawyers and academics, but I have long been convinced that a three-verdict system is no longer defensible in a modern justice system. It causes confusion and uncertainty for victims of crime and for accused persons. The principle that all accused persons are innocent until proven guilty entitles them to a straightforward acquittal in every case in which the prosecution case cannot be established beyond a reasonable doubt.

I first consulted on a similar member's bill proposal to abolish the not proven verdict at the end of the Parliament's second session. Although the level of responses to it was disappointing, that consultation yielded some useful information that has subsequently been upheld by the greater level of evidence found in the responses to my second consultation on the proposed bill and in the responses to the Justice Committee's call for evidence at stage 1.

That is why I genuinely do not believe that any further consultation or review of the jury system as recommended by Lord Bonyon will produce anything that we do not already know. My bill would replace the current system of three verdicts with the same two-verdict system that is used in all other comparable jurisdictions and raise the majority that is required for a verdict from a simple majority to a two-thirds majority.

Having considered the case for other options such as proven and not proven, I have taken on board the results of my consultation and propose that the verdicts in Scottish courts should be labelled "guilty" and "not guilty". That is what the

weight of opinion that was expressed in response to my consultation suggests that we do.

The topic is an important one that lies at the heart of Scotland's criminal justice system. It has the potential to affect every person in Scotland and the bill could help to make justice simpler, clearer and fairer.

The origins of the three-verdict system are to some extent obscure and disputed. According to some, it is a matter of pure historical accident. Before the 17th century, there was a choice of only two verdicts, but the terminology that was used varied widely. During the 17th century, the practice developed of having longer indictments listing specific charges, with the jury being invited to decide in relation to each whether it was proven or not proven.

That approach was encouraged when, in the 1680s, there were a number of cases in which juries refused to convict those charged under statutes that were introduced for the suppression of the covenanted, reflecting public support for their cause. That led the Lord Advocate to make it a rule that the jury's role was to be limited solely to deciding whether the facts libelled in the indictment had been proven or not proven. That left it to the judge to make the final decision on guilt. As a result, the guilty and not guilty verdicts fell into abeyance.

That continued until the trials of Samuel Hale in 1726 and Carnegie of Findhaven in 1728. In the former case, the jury was satisfied by Hale's defence and returned a verdict of not guilty to the charge of homicide. In the latter case, the evidence left no doubt that the accused had killed the Earl of Strathmore during a drunken brawl, but he plausibly denied any prior intention. As a verdict of proven on the facts alone could have led to the conviction and hanging of a man whom the jury regarded as innocent of murder, the jury was persuaded by Carnegie's advocate to reassert its traditional right to judge the whole case and find the accused not guilty.

The re-emergence of the not guilty verdict did not displace not proven, which continued to be used as an alternative verdict of acquittal, but with a different inference.

In the 19th century, the not proven verdict also came to be used by juries who were unwilling to convict someone of a capital offence because of sympathy for their circumstances. For example, in the trial of Isabella Rae, who was accused of the murder of her two-year-old son after she jumped into a canal clutching the child to her chest, the jury seems to have been convinced that she had been rendered suicidal by a life of abject poverty.

By then, commentators had recognised that a not proven verdict carried a stigma as a form of

second-class acquittal, although it had already been established that its effects in law are identical to those of a not guilty verdict. In law, an acquittal, whether not guilty or not proven, has the same effect. However, it is a commonly held view that a person who receives a verdict of not proven is unfairly stigmatised, particularly as they do not have the right to a retrial or an appeal in order to clear their name. The verdict is inconsistent with the presumption of innocence, according to which accused persons should be entitled to an unqualified acquittal if the prosecution cannot convince the jury of their guilt.

As I have said, not only can the current three-verdict system cause confusion, it can lead to the accused being stigmatised. That can arise because the not proven verdict is often thought of as the jury's way of saying, "We know you are guilty, but we cannot prove it," or, as the old joke goes, "Not guilty, but don't do it again." When the not proven verdict is used, the accused is left in an unsatisfactory limbo, formally acquitted but with their reputation tainted as a result of not being found not guilty. Surely if we all agree with the principle that accused persons are innocent until proven guilty, a defendant should be entitled to a straightforward and unreserved acquittal when the prosecution case against them cannot be established beyond reasonable doubt.

In response to my consultation, I learned of cases where people who had been acquitted on a not proven verdict felt compelled to move away from their homes because they believed that the local community thought that they were guilty of the offence but had got away with it. That cannot be right and it is surely not fair or just.

The first major Government-sponsored review of the three-verdict system in modern times was undertaken by the Thomson committee on criminal procedure, which reported in 1975. That committee, although it argued by a majority for its retention, concluded that the three-verdict system was illogical.

In 1994, the Scottish Office issued a consultation paper on juries and verdicts, which sought views on whether the three-verdict system should be retained or amended. The inclusion of the topic in the consultation is believed to have been prompted in part by the reaction to the 1992 trial of Francis Auld for the murder of Amanda Duffy. Evidence that was led at that trial strongly suggested that the accused had indeed committed the crime and the return of a not proven verdict was greeted with surprise and consternation. In particular, the victim's parents were instrumental in establishing a campaign against the not proven verdict. The outcome of the trial led in 1993 to the Duffys' member of Parliament, George Robertson, introducing a private member's bill seeking to

remove the not proven verdict. That followed a similar attempt in 1969 by Donald Dewar.

In 1995, Lord Macaulay of Bragar moved an amendment to the Criminal Justice (Scotland) Bill seeking the same outcome. He argued that, in the modern criminal justice system,

“it is for the Crown to prove its case beyond reasonable doubt and the not proven verdict makes no sense. If the juries are masters of the facts, as they are told they are, they must not be allowed to be the fudgers of the verdict. That is what happens in some circumstances ... We should have no such get-outs in the law and we must therefore get rid of this antiquated verdict.”—[*Official Report, House of Lords*, 16 January 1995; Vol 560, c 426.]

I could not agree more with Lord Macaulay. That is why I ask Parliament to concur that reform of the criminal verdicts available in Scotland’s courts is both important and overdue.

I thank Elaine Murray for trying to highlight the fact that a clear majority of members of the Justice Committee agreed with that proposal by submitting an amendment to that effect. I welcome that conclusion by the committee and I am disappointed that Elaine Murray’s reasoned amendment was not taken.

It is essential that our justice system in the 21st century is transparent and fully understood by all members of society and I believe that my bill will help with that. In moving my motion, I urge members to vote to make that happen.

I move,

That the Parliament agrees to the general principles of the Criminal Verdicts (Scotland) Bill.

The Deputy Presiding Officer: I call Christine Grahame to speak on behalf of the Justice Committee.

16:09

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): Presiding Officer, as you say, I am speaking on behalf of the Justice Committee and not in a personal capacity, but first I personally want to commend Michael McMahon for his tenacity and his informed pursuit of the bill up hill and down dale. I know what that is like—I have done it myself, and I know that you become committed to the bill, as Mr McMahon has shown.

The process has been useful because Mr McMahon has, in putting forward his proposals, reignited the debate surrounding the not proven verdict, and I welcome the opportunity to speak on the committee’s consideration of the bill.

As Mr McMahon has outlined, the bill consists of two distinct sections. Section 1 seeks to amend the Criminal Procedure (Scotland) Act 1995 by removing the not proven verdict and retaining the

verdicts of guilty and not guilty. Section 2 would introduce a requirement for a qualified majority of at least two thirds in jury trials in order to secure a conviction.

Members will be aware that the Justice Committee agreed to postpone consideration of the bill while the Criminal Justice (Scotland) Bill progressed through Parliament. That decision was made in light of the fact that both bills contained similar provisions relating to jury majorities. Following amendments at stage 2, the Criminal Justice (Scotland) Bill no longer made provision to abolish the general requirement for corroboration. The provision on jury majorities, which was seen as incidental to the removal of corroboration, was therefore also removed.

After the Criminal Justice (Scotland) Bill was passed, the committee returned to Mr McMahon’s bill. We issued a call for written views in November last year and received submissions from a variety of stakeholders including lawyers, academics, Police Scotland, victim support groups and several justices of the peace. We took oral evidence on the bill during a single evidence session on 19 January 2016, in which we heard from the Cabinet Secretary for Justice and then from Mr McMahon. It is not my intention to discuss all the issues that are discussed in the committee’s stage 1 report, but I will highlight some of the more pertinent topics that were identified during our consideration.

The need for legal proceedings to have a clear outcome led to some questioning the merits of a system with two verdicts that, in legal terms, do the same thing—namely, acquit. We received evidence that often, as Mr McMahon said, the not proven verdict is not well understood and carries with it a degree of stigma. The suggestion is that the accused was probably guilty but that there was not, on that specific occasion, sufficient evidence to convict. That is the no-smoke-without-fire theory. Clearly, that is unhelpful not only for the accused but for the victims of crime. The perception that a judgment carries with it finality is important and helps victims to move on with their lives. Many support groups favoured the abolition of the not proven verdict on those grounds.

There was some discussion in evidence of whether, if a two-verdict system were to be adopted, it should be the not guilty verdict rather than the not proven verdict that is abolished. It was argued, for example, that verdicts of proven and not proven better reflect the role of the judge or jury at the conclusion of a trial as their deliberations are based on proof of evidence rather than on taking a view on whether or not the accused is innocent. Of course, the not proven and proven verdicts are Scottish. Arguments that were advanced in favour of a choice between

guilty and not guilty highlighted the greater public familiarity with such verdicts, and the fact that the key question to be resolved in any criminal trial is whether the accused is guilty beyond all reasonable doubt and the person should therefore be deemed to be innocent until it is proven otherwise.

Section 2 seeks to introduce a system under which a guilty verdict requires the support of at least two thirds of the jury. The committee appreciates that those proposals were advanced as a way of ensuring that the abolition of the not proven verdict would not heighten the risk of wrongful convictions. We understand Mr McMahon's position and the need, as he saw it, to introduce measures that would mitigate the impact of the proposals that were set out in section 1. However, we noted the views that were articulated in evidence on the bill and in the context of the wider debate regarding criminal procedure in Scotland.

The committee, throughout its scrutiny of the bill, considered whether a change in jury majority might have a corresponding effect in other areas of the legal system. For example, a number of support organisations were concerned that any increase in the majority required for a conviction would disproportionately affect victims of certain crimes. There was also a perception that the abolition of the not proven verdict might lead to more unsafe convictions—or, conversely, to significantly more not guilty verdicts. Although those concerns were to a greater or lesser degree a matter for conjecture, they raised wider questions about the behaviour and decision making process of juries, which is an issue that the committee has been looking at for some time.

Without a sound evidence base, it is not possible to know how the proposals relating to jury majorities might play out in practice, and the majority of the committee concluded that more work needed to be done before changes were made to that area of the law. The parameters of the research that is proposed by the Government are still to be framed, but we would expect that any research on jury behaviour would take into consideration the matters that we have explored during the consideration of Mr McMahon's bill.

As we have heard, the committee was generally supportive of the proposals relating to the abolition of the three-verdict system. The bill has shone a welcome light on the ambiguities of the not proven verdict and the issues that it continues to throw up for justice in Scotland. As I have said before, the not proven verdict is often deeply unsatisfactory for victims and is often no better for the accused. Like many members of the committee, I believe that the not proven verdict is on borrowed time. However, although we understand the reasons for

Mr McMahon including the measures relating to jury majorities, it was the committee's view, having considered all the evidence, that further research on decision making by juries is needed before we proceed with the other reforms that are set out in the bill. The committee was therefore unable to support the general principles of the bill.

The cabinet secretary announced in September that the Government would be conducting research into jury behaviour, and the committee hopes that the research will proceed as soon as possible. I would not want Mr McMahon to be disheartened, because sometimes we just have to keep going at something, as he will know. I think that he has made huge progress and that the issue is not done and dusted by any means. It is up to any incoming Government to decide how to take it further, but Mr McMahon has, on balance, the sound support of the committee on at least one part of his bill; it is the other part that we think needs further research.

I look forward to hearing other members' contributions to this debate and to receiving the Scottish Government's response to our committee report.

16:16

The Cabinet Secretary for Justice (Michael Matheson): First, I would like to thank Michael McMahon and the non-Government bills unit for their work on this legislation. Like other members, I commend Michael McMahon for all his hard work in bringing forward this proposal on such an important issue. From my meetings with him and from listening to his evidence to the Justice Committee, it is very clear to me how strongly he believes in the changes that are proposed in the bill. His commitment to this area of reform has been unwavering.

I realise that the changes to the timetable for the Government's Criminal Justice (Scotland) Bill have had a significant impact on the consideration of the Criminal Verdicts (Scotland) Bill. That was unavoidable and, given the recommendations by Lord Bonyon, it proved to be appropriate that we all await the outcome of that piece of work and the Government's Criminal Justice (Scotland) Bill.

The Government gave Lord Bonyon's review non-exhaustive terms of reference that specifically included jury majority and size. In fact, it was the report by the academic expert group that went further and considered Scotland's three-verdict system and whether the not proven verdict should be abolished. The expert group was of the view that the review had to take into account the three-verdict system. In its view, consideration of the size of the jury and the majority required for a conviction is inextricably linked to the number of

verdicts that are available to a jury. The Government has accepted that view and the approach that any major changes to the jury system should be considered in a holistic manner. There were therefore good reasons for the delay in considering Mr McMahon's bill, but I understand that it must have been a frustrating time for Mr McMahon. I am very grateful for his patience during that period.

The recommendations of Lord Bonomy's group form one of the main reasons why the Scottish Government has opposed the Criminal Verdicts (Scotland) Bill. I note from the stage 1 report that the majority of the Justice Committee have been unable to support the overall package of reforms contained in the bill. It is with regret that, as a Government, we have had to take the position on the bill that we have.

Both Mr McMahon and the Justice Committee, in its consideration of the bill, have raised legitimate concerns about Scotland having three verdicts. I have stated previously that I am completely open minded about whether Scotland should retain three verdicts or move to two. However, as I have just mentioned, the key components of the Scottish jury system—the simple majority required for conviction, the three verdicts and the size of the jury—are interlinked, and the fact that the Scottish jury system has unique features makes it difficult to make clear comparisons with other jurisdictions. Other countries allow conviction by simple majority, but their overall procedures and built-in safeguards differ from those of the Scottish justice system. We also have other unique features in Scotland. As well as the three-verdict system, we have a larger jury size—15 jurors—than most other countries do.

In any substantial reform in this area, the potential impacts on other areas of the Scottish system must be a key consideration. The responses to the consultation on the bill illustrated not only the necessity to consider those impacts but some of the difficulties with the bill. There was clear support for removal of the not proven verdict, but there was no general consensus that it should be removed alongside an increase in the jury majority.

I am of the view that there must be a strong evidence base for any future reform so that we can make an informed decision on how major reforms to one part of the system might have an impact on others. That is why I agree with Lord Bonomy's recommendation that jury research be carried out. That should enable a future Administration and Parliament to take an holistic and evidence-based approach to any substantive reform in the area, and it should give us a much

better understanding of how Scottish juries operate.

This debate is about Michael McMahon's bill, and I do not want to dominate it by talking about jury research in great detail. I simply update members by saying that my officials will have completed their engagement with interested stakeholders and organisations by March. With those meetings, we are seeking views on whether the research should be wider than the topics that Lord Bonomy suggested and whether it should use mock or real jurors.

I had hoped that the research could commence before the pre-election period. However, it is important that we get the remit and the methodology right, and for that reason it is worth taking our time to consider all views before we reach a final decision on the scope of the research. There has been a general consensus among members of all parties in favour of the Government's intention to undertake the research, and I hope that the work will be taken forward in early course by the Administration that is elected in May.

It is, therefore, with some regret that I ask members not to support the general principles of the Criminal Verdicts (Scotland) Bill and that I propose that the bill should not progress to stage 2.

16:23

Elaine Murray (Dumfriesshire) (Lab): As Michael McMahon said, I lodged an amendment to his motion, and I am disappointed that the Presiding Officer did not select it for debate. I will nevertheless speak to the amendment's intentions, although there is no possibility of a vote on it.

Michael McMahon introduced his Criminal Verdicts (Scotland) Bill in November 2013, having consulted on his proposals in 2012—although, as he said, he tried to introduce a similar bill in the previous session. Around the same time, the Scottish Government consulted on the legal reforms that would be required if the requirement for corroboration was to be abolished.

In June 2013, the Scottish Government introduced the Criminal Justice (Scotland) Bill, which proposed to abolish the requirement for corroboration and contained provisions that required a guilty verdict to have the support of at least two thirds of the jury. It did not, however, propose the removal of the not proven verdict. As members know, in April 2014, the Government agreed to suspend stage 2 of that bill pending a review by Lord Bonomy of additional safeguards that should be introduced if the requirement for corroboration was abolished.

Michael McMahon's bill was therefore introduced against the background of the first version of the Criminal Justice (Scotland) Bill. Scrutiny of his bill was postponed in the light of that, as section 2 of his bill and provisions in the Criminal Justice (Scotland) Bill both proposed to increase the jury majority from eight to 10. At that stage, the provisions of the Criminal Verdicts (Scotland) Bill could have been incorporated into the Criminal Justice (Scotland) Bill by way of amendment, and the Justice Committee took evidence from Michael McMahon on that.

It is interesting that, at stage 1 of the Criminal Justice (Scotland) Bill, the Justice Committee did not take a view on the jury majority, although it called for an independent review of additional safeguards. Subsequent to Lord Bonomy's reporting, the abolition of the requirement for corroboration and the changes to the jury majority were removed from the Criminal Justice (Scotland) Bill. The committee therefore formally considered the Criminal Verdicts (Scotland) Bill, although the member in charge had rather a long wait before that happened and had to remind us that his bill was still awaiting consideration.

I lodged the reasoned amendment in my name to highlight the paragraph on page 15 of the committee's stage 1 report that states:

"A clear majority of the Committee supports the intention of the Bill to abolish the not proven verdict".

I did so in the full knowledge that, even if my amendment was agreed to, the amended motion would be likely to fall. Nevertheless, I wanted the Parliament as a whole to send out the signal that the abolition of the not proven verdict is overdue and that the next Scottish Government should legislate to remove the anomaly in Scots criminal law of there being two acquittal verdicts.

There is an argument for reverting to the old proven and not proven verdicts that existed in Scots law prior to the 1700s. The prosecution in a criminal trial has to prove beyond reasonable doubt that the accused committed the crime for which they are being tried. If they are found guilty, the accused may appeal and the decision can be reversed. Similarly, under double jeopardy, an unsuccessful prosecution can be revisited—it is just a question of proof. However, reverting to the old verdicts could be confusing to all concerned and to the public, who are now used to the not guilty verdict.

Having two acquittal verdicts is not in the interests of justice. The majority of respondents to the committee's call for written evidence were in favour of a two-verdict system, although some had reservations about changing the jury majority. A not proven verdict casts aspersions on both the complainer and the accused. One of the justices of

the peace who provided evidence—Lieutenant Colonel Morrison—suggested that there is a possibility that a not proven verdict is used when JPs consider that

"a case is proved on balance of probability rather than beyond reasonable doubt".

The same may be true of juries. Rape Crisis Scotland, which supports the removal of the not proven verdict, pointed out that according to Scottish Government statistics, the highest rate of use of the not proven verdict, at 15 per cent, is for rape and attempted rape cases.

A not proven verdict can be unfair on the accused, as it can imply not that they are not guilty but that the prosecution did not put up a robust enough case to prove their guilt beyond reasonable doubt. I have responded to the verdict in that way. A constituent came to me about an issue that arose from a criminal case in which he said he had been acquitted. I then found that he had received a not proven verdict. My immediate reaction was to think not that he was innocent but that the case against him just had not been proved—although I did not say that out loud, of course.

Despite not being able to bring to the chamber an amendment that would have allowed members to signal their support for the abolition of the second acquittal verdict, I believe that abolition is the wish of Parliament. Like Christine Grahame, I heartily congratulate Michael McMahon on his tenacity in bringing the matter before Parliament, and I thank the clerks, the non-Government bills unit, the Scottish Parliament information centre and the cabinet secretary for their input into our stage 1 discussions.

If, as will probably be the case, Michael McMahon's bill does not proceed tonight, I urge the Parliament to return to the subject as soon as possible in the next session.

16:28

Margaret Mitchell (Central Scotland) (Con): I am pleased to participate in this stage 1 debate on the Criminal Verdicts (Scotland) Bill. Michael McMahon has waited some considerable time for the bill to come before the Parliament. I believe—and I think that he confirmed—that it was as far back as 2007 when his first member's bill on the subject fell at dissolution. As members have said, in this session, scrutiny of the proposals was delayed for a couple of years as the Criminal Justice (Scotland) Bill, which had provisions whose scope overlapped with the Criminal Verdicts (Scotland) Bill, completed its parliamentary passage.

Having had experience of how much focus and commitment are required to introduce a member's

bill, I commend Michael McMahon and pay tribute to his resolve and his continued efforts to generate discussion and debate about the three-verdict system by introducing the Criminal Verdicts (Scotland) Bill.

Although the bill is short, the changes to Scots law that it seeks to implement are substantial and should not be underestimated. It has two primary aims: to remove the not proven verdict as an option in criminal trials and to change the rules on the number of jurors who must support a guilty verdict, which the member in charge has rightly recognised as a connected issue.

When the member gave evidence to the Justice Committee, he presented many valid points in favour of abolition. In addition, I acknowledge that some stakeholders consider the three-verdict system to have had its day, and I fully understand and appreciate that there are individuals in those stakeholder groups who for varying reasons, including deeply emotive and personal ones, argue passionately for the abolition of the not proven verdict.

However, I remain hugely concerned about the piecemeal approach that decision makers have taken to changing elements of the Scottish criminal justice system, especially following the corroboration debacle, in which abolition was proposed without consideration of the implications of such a change in the round. As the Faculty of Advocates argued in its consultation response, the reforms to the three-verdict system

“should be considered in the context of a review of the criminal justice system as a whole”.

The Law Society of Scotland summed up the situation by pointing out in its consultation response that, as far back as 1994, it had argued that

“the three verdict system should be retained in that this system was part of the organic whole which constituted the method of determination of guilt in Scottish criminal courts.”

Put simply, it is impossible to amputate one part of the system without considering the impact on the whole, and a failure to consider that could result in unintended consequences that might make the problem that we are trying to remedy worse.

The Scottish Government has stated that it is

“open to the possibility of the Not Proven verdict being removed”,

but it has also said that it will take forward Lord Bonyon’s recommendation that jury research be carried out before any reforms are implemented. The Bonyon review indicated that that could take around two years. I welcome that approach, but I note with considerable concern that jury directions in certain sexual offence cases are being placed

on a statutory footing before that research has been completed.

As Michael McMahon said in his evidence to the committee, the not proven verdict

“has always been there in the background; it has never gone away.”—[*Official Report, Justice Committee*, 19 January 2016; c 12.]

As a result, the opportunity that his bill presented to scrutinise the issue, especially given recent developments in the criminal justice system, has been worth while and appreciated, for which I thank Mr McMahon. However, the Scottish Conservatives are not convinced that there is a compelling or persuasive need for reform at this time, although we await the findings of the jury research. For that reason, I do not support the bill’s general principles, and I confirm that we will not support the bill at decision time.

16:33

Christian Allard (North East Scotland) (SNP):

It has been a rollercoaster ride since I joined the Justice Committee in 2013. We have scrutinised many pieces of legislation, some of which we stopped, some of which we passed and many of which we amended. The committee is a lovely place, and the fact that no party has a majority on it is perhaps quite healthy. Sometimes there is a need to agree to disagree, and we do so when we have to.

A few members’ bills have come before the committee in the past three years, and I was delighted that we passed Margaret Mitchell’s Apologies (Scotland) Bill last month. It is important to think about that in the context of today’s debate.

I thank and commend Michael McMahon for introducing the Criminal Verdicts (Scotland) Bill. As everyone has said, the debate on the not proven verdict had to take place; like any other system, Scots law needs to be reviewed and updated from time to time.

I note Elaine Murray’s proposed amendment. The only thing that I would say is that we agree, and I am one of the majority. Maybe one of the reasons why that amendment was not accepted is that we agreed, and that was in the committee’s report.

Most of the evidence that the committee received was critical of Scotland’s three-verdict system. I truly believe that the case has been made and I would not hesitate to abolish the not proven verdict. Unfortunately, Michael McMahon asks us today to agree to all the bill’s general principles. The part of the bill that sets out those principles begins:

“An Act of the Scottish Parliament to provide for the removal of the not proven verdict as one of the available verdicts in criminal proceedings”.

So far, so good. Unfortunately, the bill goes on to say:

“and for a guilty verdict to require an increased majority of jurors.”

It was suggested to Mr McMahon that he could remove that second aim. I understand his reason for not doing so, but I do not understand why he did not say much about it in his speech. I am sure that he will address the issue in his winding-up speech. I wonder whether, if the aim in the bill had not been so specific, the member might have chosen to drop his proposal to change the jury majority that is required for a conviction.

Michael McMahon: Will the member give way?

Christian Allard: I am sorry, but I have only a few minutes. Perhaps the member can address the issue later.

I would have been happy to consider abolishing the not proven verdict, if that was to happen in isolation. However, we are where we are, and the clear majority of the committee supports the bill's intention to abolish the not proven verdict but does not support the proposal about jury majorities. We received evidence that opposed changing jury majorities in isolation and we were told that that should be considered alongside the other reforms proposed by Lord Bonomy.

We said in our report that further research is needed on decision making by juries. I am not so sure about that and I would not support amendment of the Contempt of Court Act 1981. In my opinion, using mock jurors is fine. I would like to hear the cabinet secretary's views on the matter. I know that he talked about the issue and said that he wanted to take evidence. I say that I am not sure about the need for further research because we would not be here today if members of the Justice Committee had supported the abolition of the absolute requirement for corroboration.

I hope that Mr McMahon understands that some of us wanted the Criminal Justice (Scotland) Bill to progress as introduced. I supported then and support now the abolition of the absolute requirement for corroboration in Scots law. The cabinet secretary reminded us in January that one of the safeguards for the abolition of corroboration was changing the majority provision for juries from the existing simple majority. I was all for abolition but, despite the evidence that was received, we could not move forward and instead we got a post-corroboration safeguards review.

I feel for Michael McMahon because, after all his efforts, he could see his bill fall at stage 1.

However, I gently remind him that he took a view on corroboration. In 2014, he voted for Margaret Mitchell's amendment to call for the removal of the provisions in the Criminal Justice (Scotland) Bill to abolish the absolute requirement for corroboration. Further, and perhaps more important, Michael McMahon voted on that day to prevent the bill from going forward. Therefore, I will have no hesitation in voting down his bill tonight.

Here is what Highland violence against women partnership told us:

“We urge the Scottish Parliament not to take this Bill forward without considering other measures, such as the removal of corroboration, as to do so would be damaging to those seeking justice for experiences of Violence Against Women.”

There is unfinished business. I was one of the members of the committee and the Parliament who wanted to further reform the criminal justice system, but others disagreed. Members of Parliament in the next session will have to move the issue forward.

The Deputy Presiding Officer: We now move to closing speeches.

16:38

Cameron Buchanan (Lothian) (Con): I thank members for the constructive debate this afternoon. It has been a pleasure to take part in it.

Like others, I begin by paying tribute to Michael McMahon for bringing this issue and the connected issue of jury majorities to the fore. A member's bill requires unrelenting commitment and dedication, and the member has certainly demonstrated both over a number of years in his continued efforts to reform this area of Scots law.

I start by observing that although, in my limited experience in this Parliament, it is not often that the Scottish Conservatives agree with the Scottish Government's approach to reforming the criminal justice system, my party recognises the need for jury research and welcomes the cabinet secretary's assurances that it is commencing.

However, I also share the concerns that my colleague Margaret Mitchell expressed. I appreciate that such research will take some time to complete and, therefore, am concerned that jury directions in some sexual offence cases are being pre-emptively put on a statutory footing through the Abusive Behaviour and Sexual Harm (Scotland) Bill, without waiting for the research findings to support what the Law Society has called a

“major departure from existing practice.”

It seems to me that the Scottish Government has taken a pick-and-mix approach to policy implementation in the past, particularly in relation

to the general requirement for corroboration, whereas what we need is a consistent, holistic approach that looks at Scotland's criminal justice system in the round.

I note with interest that Christine Grahame, the SNP convener of the Justice Committee, made a similar point in relation to juries to the cabinet secretary during his stage 1 evidence on the bill. She said:

"You rightly said that we need to consider how juries think about things, how they come to decisions and why they arrive at a not proven verdict in certain cases rather than a guilty or not guilty verdict. Juries' thinking is complex, and I am glad that we are doing the research. Nevertheless, it seems to me that jury directions are something else that could be encompassed in that research."—[*Official Report, Justice Committee, 19 January 2016; c 6.*]

Michael McMahon has argued that not proven should be removed as a verdict in criminal trials for a number of reasons, one in particular being that the judiciary cannot give directions or guidance to juries about the difference between not guilty and not proven. Here, SPICe was very helpful. According to figures provided by the Scottish Government, of the 970 people who were acquitted on the basis of a not proven verdict in 2012-13, 694 were prosecuted under summary procedure, meaning that the verdict was delivered by a sheriff, not a jury. For that reason, Sheriff McFadyen suggested:

"While the not proven verdict is often criticised and is somewhat anachronistic, the fact that it is used, albeit sparingly, in summary trials perhaps indicates that it is not wholly pointless."

Although there is some divergence in opinion about whether the not proven verdict should be abolished, the consensus view is that now is not the time to make such a radical change to the current system of having three verdicts in criminal trials. The Scottish Conservatives believe that there should be a compelling case for change, with a strong evidential basis, which has not yet been made. For that reason, as Margaret Mitchell said, we will not be able to support the bill at decision time.

16:41

Graeme Pearson (South Scotland) (Lab): As is evident from this afternoon's debate, changes to elements of criminal justice procedure are famously difficult to achieve and sometimes take decades—and, on occasion, centuries—of debate. The cabinet secretary's commitment to maintain an open mind on the matter is welcome. It is regrettable that he rejects Michael McMahon's proposal and I hope that, in the next session of Parliament, that open-minded approach will be maintained by whoever becomes the Cabinet Secretary for Justice.

The majority of members of the Justice Committee appreciated the need to reassess the use of the not proven verdict and questioned whether it provided an effective way forward. During the debate, it has been explained that there are reservations about section 2 of the bill, and I understand the arguments behind that concern. However, in its submission, Victim Support Scotland indicated that

"a not proven verdict can be confusing and disappointing."

There is no doubt that those who go to court as witnesses are often left in a difficult situation upon hearing that there has been a not proven verdict, which leaves them in limbo, feeling they have neither closure nor a declared outcome from the court. The notion that one is innocent until proven guilty is black and white, and provides for a definite outcome at the conclusion of the process. For many, the inclusion of a not proven option is confusing.

The Faculty of Advocates has indicated:

"It is patronising to jurors to assume that they cannot or do not understand what this means."

However, as my colleague Elaine Murray suggested, the evidence that the committee received from a justice of the peace on the use of that verdict was that it indicated a lack of clear thought about how the issues should be decided.

It is evident that there is controversy around this whole area of the criminal justice system. The Government has proposed changes to corroboration, and there is still a great deal of heat in connection with that debate that must be addressed.

The size of juries has been mentioned and the nature of a majority has been debated and obviously causes a great deal of concern. I congratulate Michael McMahon on allowing us to debate such issues, to which his bill adds the important issue of the not proven verdict.

I am pleased that Lord Bonomy's review and recommendations will be examined in the next session of Parliament. I hope that the Parliament will keep the issue at the top of its agenda and commit to dealing with it as a matter of urgency. The issue has been a running sore. The not proven verdict has stigmatised the accused on many occasions and has left victims—and others—unhappy.

I ask the cabinet secretary to leave a note on the issue for whoever takes his place—the note might be for him if he is fortunate enough to go back into that post. The Labour Party's intention is to support Mr McMahon's bill, as much as anything to put down a marker that we did not all agree today that the principles of the bill are without credibility.

16:46

Michael Matheson: The debate has provided Parliament with a useful opportunity to look at the merits and shortcomings of having a three-verdict system in which two of the verdicts—by providing an acquittal—have the same outcome.

I reiterate that I fully respect and understand the strong and principled position taken by Michael McMahon in pursuing the removal of one of our verdicts for acquittal from the justice system. I also fully understand and acknowledge that a range of members of the Justice Committee were persuaded of the need to move from a three-verdict system to a two-verdict system. However, it is important that we are careful when we start to make alterations to the verdicts in the criminal justice system and to the interlinked aspects that play a key part in the process.

Elaine Murray highlighted a key challenge around understanding how the existing arrangements operate and what influences the decisions that our juries make. However, the very evidence from a justice of the peace that she cited and to which Graeme Pearson just referred shows that there are different understandings of what exactly a not proven verdict means and when it should be applied.

It is worth keeping in mind the areas to which the research on juries will give consideration. For example, it will look at what jurors understand to be the difference between a not guilty and a not proven verdict; why they choose one over the other; why and to what extent jurors alter their position on not proven and not guilty as a result of the jury's deliberations; the extent to which members of a jury of 15 compared with those of a jury of 12 participate in the deliberations; the differences in the outcomes from a 12-person jury, with only two possible verdicts, and from a 15-person jury, with three verdicts, and the reasons for the different verdicts that they come to; and whether there are benefits in requiring the jury to attempt to reach a unanimous verdict. Research in all those areas will provide us with a significant level of insight into how juries arrive at their decisions—the process of deliberation that they undertake in order to arrive at an outcome. All that will assist us in understanding the jury process much more effectively.

As the Lord Bonomy review group recognised, the three component parts of our jury system—the jury majority, the jury size and the verdicts that are available—interlink. It is extremely important that we consider the issues that Lord Bonomy's review group has highlighted and that we consult stakeholders on whether we should add further areas to the research. Once we have considered those matters, we will then, on an informed basis,

be able to consider in greater detail what approach we should take in reforming this area.

In his speech, Christian Allard raised the issue of whether we should use mock or real jurors for the research. There are pros and cons to using one approach over the other, as members will appreciate. The first thing to say is that we have never had any research into jury behaviour in Scotland before and such research is rare internationally. One of the practical considerations is that we would have to amend the Contempt of Court Act 1981 to facilitate the use of real jurors, which we would not have to do if we made use of mock jurors in the research.

Christine Grahame: This follows on from what Cameron Buchanan said. If the not proven verdict were to disappear, the abolition would also pertain when it is not a jury making the decision. I do not know how we would go about it, but perhaps we should also look at how a justice of the peace or a sheriff sitting on their own delivers that verdict. We must not just think that it is always juries who use it.

Michael Matheson: Of course, and that is one of the issues that we can consider when we frame the research.

Using real jurors also carries a risk of exposing the system or individual cases to opportunistic challenges that misuse the results of the research, so we must be careful of that. I am also conscious that there are people who would say that if we are going to go into the issue in detail, we should use real jurors and deal with real cases rather than use mock jurors in a different set of scenarios.

All of those factors must be weighed up and considered, which is exactly what we are doing at the moment.

I reiterate my recognition of the tremendous amount of work that Michael McMahon has put into the bill, but I regret that the Government is not able to support it and I ask that Parliament not agree that it should move on to stage 2 consideration.

16:52

Michael McMahon: I thank the staff of the non-Government bills unit, whose assistance has been invaluable to me over the past number of years.

I am also grateful to the people who contributed to my consultations, and to the legal experts and academics who provided me with advice and support in introducing the bill. They left me in no doubt at all that the bill is necessary. Had I been persuaded otherwise, I would not have persisted with it.

I thank the Justice Committee for its considered scrutiny of my bill and the people and organisations that responded to its call for evidence. To quote the committee's stage 1 report:

"There is no legal difference between a not guilty and not proven verdict. This raises questions as to the merits of retaining both verdicts."

To put it simply, a three-verdict system is illogical and confusing. That is particularly so when the jury is not allowed to receive guidance on the difference between the two acquittal verdicts, as Cameron Buchanan highlighted. Court rules prohibit the judge from explaining to a jury the difference between not proven and the other acquittal, not guilty.

As highlighted in the post-corroboration safeguards review report, the standard text on Scottish criminal procedure states:

"The jury should not be told the meaning of the not proven verdict; they need not even be told that it is a verdict of acquittal."

How on earth can a verdict that cannot and must not be explained to a jury be available to that jury?

In its report, the Justice Committee acknowledged the confusion. It said:

"We note views that this confusion can lead to the effective defamation of the accused where the public believes the not proven verdict implies a degree of culpability; that the accused, in colloquial terms, 'got away with it'. The Committee acknowledges that a not proven verdict may have social and indeed employment consequences that a not guilty verdict does not."

However, we need to consider not only the people who are on trial when we deliberate reducing the three verdicts to two. We know that victims and relatives sometimes also find a not proven verdict unacceptable, as it denies them a sense of closure.

In its response to my consultation, Victim Support Scotland said:

"In our experience, for many victims and witnesses, a not proven verdict can be confusing and disappointing. Finality and certainty are crucial elements of an effective criminal justice system. This includes finality and certainty not just on the part of accused persons, but also for victims and victims' families. A clear and transparent verdict of guilt or innocence from the justice system is often vital for providing victims with a sense of closure."

In its response to the Justice Committee's call for evidence, Rape Crisis Scotland said:

"Rape Crisis Scotland supports the removal of the not proven verdict. The not proven verdict is most commonly used in rape cases. According to the Scottish Government, the proportion of people receiving a not proven verdict ... was 15%, the highest for any crime type."

If the not proven verdict is to be removed, it is essential that guilty verdicts are robust and that

such convictions are safe. I recognise that, because that is what we were told in response to my consultation.

Let me respond to Christian Allard's comments. It must make sense to increase the majority that is required to convict and to take both measures forward at the same time. That is what the evidence from my consultation suggested. In my first consultation, I was told that, if I had brought forward a proposal on the not proven verdict alone, without considering the jury issue, that would have been justification for voting it down. Therefore, he cannot really have it both ways: I cannot not discuss juries, only to have the issue used as a reason to not support the bill.

Christian Allard: I thank the member for taking my intervention. He is not the first person to have quoted Victim Support Scotland. I agree with him about the not proven verdict. However, Victim Support Scotland said that it did not accept that it would be necessary to increase the jury majority if the not proven verdict were to be removed. That is the matter for today.

Michael McMahon: That is one piece of evidence, but the majority of responses to the consultation suggested otherwise. That is all evidence that allows people to determine whether they want to support the bill. I think that I have explained to Christian Allard why we had to have two parts to the bill and to take both issues together. What I find really disappointing is his suggestion that voting against the bill this afternoon is some sort of payback because I voted against a previous bill on corroboration. It disappoints me that that issue was raised again as a reason for voting against the bill. Payback is not a justification for supporting or not supporting a bill.

Christian Allard *rose*—

Christine Grahame *rose*—

Michael McMahon: I am sorry—I will not take an intervention.

At present, a jury in Scotland can return a verdict of guilty when at least eight of its members are in favour of that verdict. That level of support is required whether the jury has a full complement of 15 jurors or is reduced in numbers. When a guilty verdict does not attract the support of at least eight jurors, the accused is acquitted. Under those rules, a person may be convicted on the basis of a simple majority, and there is no potential for a hung jury: the only possible outcomes are a finding of guilty or an acquittal.

Scotland is the only common-law jurisdiction where an accused person can be convicted on a simple majority verdict. Other systems that are based on a simple majority verdict have additional

protections. In Italy, for example, a conviction is allowed on a simple majority, but two judges sit alongside six lay jurors. In Belgium, jurors can convict on a simple majority, but a unanimous panel of judges can overturn an erroneous verdict.

My bill would retain the jury size of 15, but move to a qualified majority, with at least two thirds of the jury being required to convict. The number required to convict would be reduced on a sliding basis if excusals or other absences reduced the size of the jury.

The Scottish Government has also consulted on the subject, and I remain puzzled as to why it has arrived at a different place today. In 2012, the Government looked at a number of legal reforms, and in 2013, it introduced the Criminal Justice (Scotland) Bill. The Government's consideration of increasing the jury majority was linked to the removal of corroboration and mine was linked to the removal of the not proven verdict, but our consultations arrived at the same conclusion. The Criminal Justice (Scotland) Bill, as passed, saw the provision on jury majorities removed in light of recommendations made in the Bonomy review. Unlike the Scottish Government, I believe that the Parliament should not have to wait for the outcome of further research before it reaches a decision on the abolition of the not proven verdict.

As Professor Chalmers and Professor Leverick said in their submission to the Justice Committee, it is a matter of principle, and a decision should not be

“evaded by calls for further empirical research.”

I hope that, come decision time, members will agree with me that there is no longer a place in the Scottish legal system for three verdicts. It is time to get rid of the one verdict that has the potential to confuse a jury, stigmatise the acquitted and upset victims. If the not proven verdict is disposed of, a safeguard is to increase the size of the jury majority that is needed to convict, and to move both measures forward at the same time.

I am pleased to have moved the motion.

Parliamentary Bureau Motion

17:00

The Presiding Officer (Tricia Marwick): The next item of business is consideration of a Parliamentary Bureau motion. I ask Joe FitzPatrick to move motion S4M-15740, on committee membership.

Motion moved,

That the Parliament agrees that Bob Doris be appointed to replace Fiona McLeod as a member of the Health and Sport Committee.—[*Joe FitzPatrick.*]

The Presiding Officer: The question on the motion will be put at decision time.

Decision Time

17:00

The Presiding Officer (Tricia Marwick): There are four questions to be put as a result of today's business. The first question is, that motion S4M-15735, in the name of John Swinney, on the Local Government Finance (Scotland) Order 2016, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Davidson, Ruth (Glasgow) (Con)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)

McMillan, Stuart (West Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Wilson, John (Central Scotland) (Ind)

The Presiding Officer: The result of the division is: For 73, Against 35, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Local Government Finance (Scotland) Order 2016 [draft] be approved.

The Presiding Officer: The next question is, that motion S4M-15709, in the name of Joe

FitzPatrick, on the Scottish Elections (Dates) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees that the Scottish Elections (Dates) Bill be passed.

The Presiding Officer: The Scottish Elections (Dates) Bill is passed. [*Applause.*]

The next question is, that motion S4M-15429, in the name of Michael McMahon, on the Criminal Verdicts (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adamson, Clare (Central Scotland) (SNP)
 Baillie, Jackie (Dumarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 McCulloch, Margaret (Central Scotland) (Lab)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stewart, David (Highlands and Islands) (Lab)

Against

Adam, George (Paisley) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Davidson, Ruth (Glasgow) (Con)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)

Fabiani, Linda (East Kilbride) (SNP)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (Ind)
 Yousaf, Humza (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 28, Against 80, Abstentions 0.

Motion disagreed to.

The Presiding Officer: The next question is, that motion S4M-15740, in the name of Joe FitzPatrick, on committee membership, be agreed to.

Motion agreed to,

Meeting closed at 17:03.

That the Parliament agrees that Bob Doris be appointed to replace Fiona McLeod as a member of the Health and Sport Committee.

This is the final edition of the *Official Report* for this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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